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

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NUCLEAR REGULATORY COMMISSION

10 CFR Parts 11, 25, and 95

[NRC–2020–0133]

RIN 3150–AK49

Access Authorization Fees

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule; withdrawal.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is withdrawing a direct final rule that would have updated the access authorization fees charged to NRC licensees for work performed under the Material Access Authorization Program and the Information Access Authority Program. The direct final rule also would have made two administrative changes to revise definitions to include new naming conventions for background investigation case types and to specify the electronic process for completing security forms. The NRC is taking this action because it has received a significant adverse comment in response to the companion proposed rule that was published with the direct final rule.

DATES: Effective March 8, 2022, the NRC withdraws the direct final rule published at 86 FR 73631 on December 28, 2021.

ADDRESSES: Please refer to Docket ID NRC–2020–0133 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2020–0133. Address questions about NRC dockets to Dawn Forder; telephone: 301–415–3407; email: *Dawn.Forder@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, at 301–415–4737, or by email to *PDR.Resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in the **SUPPLEMENTARY INFORMATION** 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: Vanessa Cox, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001, telephone: 301–415 8342, email: *Vanessa.Cox@nrc.gov.*

SUPPLEMENTARY INFORMATION: On December 28, 2021 (86 FR 73631), the NRC published in the **Federal Register** a direct final rule that would have amended parts 11, 25, and 95 of title 10 of the *Code of Federal Regulations* to update the access authorization fees charged to NRC licensees for work performed under the Material Access Authorization Program and the Information Access Authority Program. The direct final rule also would have made two administrative changes to revise definitions to include new naming conventions for background investigation case types and to specify the electronic process for completing security forms. The direct final rule was to become effective on March 14, 2022.

The NRC also concurrently published a companion proposed rule on December 28, 2022 (86 FR 73685). In the proposed rule, the NRC stated that if any significant adverse comments were received, then the NRC would withdraw the direct final rule by publishing a notice in the **Federal Register**. In that event, the direct final rule would not take effect.

The NRC received a significant adverse comment on the proposed rule that accompanied the direct final rule; therefore the NRC is withdrawing the direct final rule. The comment was submitted by the Nuclear Energy Institute, a private organization. The comment (ADAMS Accession No. ML22025A233) is available at *www.regulations.gov* by searching on Docket ID NRC–2020–0133. The comment states that the direct final rule did not provide sufficient information to explain the proposed increase in authorization fees. Specifically, the comment questions why the NRC selected the revised number and how authorization applications are becoming more complex. Additionally, the comment requests that the NRC consider phasing in the proposed fee increase and takes issue with the direct final rule's conclusion that the NRC has not adjusted its fees since 2012. The NRC considers the comment to be a significant adverse comment as defined in Section II, Rulemaking Procedure, of the direct final rule because the comment raises an issue serious enough to warrant a substantive response to clarify or complete the record.

As stated in the December 28, 2021, proposed rule, the NRC will address the comment in a subsequent final rule. The NRC will not initiate a second public comment period on this action.

Dated: March 2, 2022.

For the Nuclear Regulatory Commission.

Daniel H. Dorman,

Executive Director for Operations.

[FR Doc. 2022–04813 Filed 3–7–22; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2021–0636; Airspace Docket No. 21–ASW–13]

RIN 2120–AA66

Amendment of the Class E Airspace; Uvalde, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Class E airspace at Uvalde, TX. This action is the result of an airspace review due to the decommissioning of the Uvalde non-directional beacon (NDB).

DATES: Effective 0901 UTC, May 19, 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. FAA Order JO 7400.11F is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order JO 7400.11F at NARA, email: *fr.inspection@nara.gov* or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

FOR FURTHER INFORMATION CONTACT: Rebecca Shelby, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5857.

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 Garner Field Airport, Uvalde, TX, to support instrument flight rule operations at this airport.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (86 FR 70425; December 10, 2021) for Docket No. FAA–2021–0636 to amend the Class E airspace at Uvalde, TX. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6005 of FAA Order 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 at Garner Field Airport, Uvalde, TX; removes the Uvalde NDB and associated extensions from the airspace legal description; removes the city associated with the airport in the header of the airspace legal description to comply with changes to FAA Order JO 7400.2N, Procedures for Handling Airspace Matters.

This action is the result of an airspace review due to the decommissioning of the Uvalde NDB which provided guidance to instrument procedures at this airport.

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.

* * * * *

ASW TX E5 Uvalde, TX [Amended]

Garner Field, TX
(Lat. 29°12′41″ N, long. 99°44′37″ W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Garner Field Airport.

Issued in Fort Worth, Texas, on March 2, 2022.

Martin A. Skinner,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2022–04820 Filed 3–7–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2021–1135; Airspace Docket No. 21–ASW–26]

RIN 2120–AA66

Amendment of the Class E Airspace; Olney, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Class E airspace at Olney, TX. This action is the result of an airspace review due to the decommissioning of the Olney non-directional beacon (NDB). The geographic coordinates of the airport are also being updated to coincide with the FAA's aeronautical database.

DATES: Effective 0901 UTC, May 19, 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. FAA Order JO 7400.11F is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order JO 7400.11F at NARA, email: *fr.inspection@nara.gov* or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

FOR FURTHER INFORMATION CONTACT: Rebecca Shelby, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5857.

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 Olney Municipal Airport, Olney, TX, to support instrument flight rule operations at this airport.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (86 FR 71600; December 17, 2021) for Docket No. FAA–2021–1135 to amend the Class E airspace at Olney, TX. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6005 of FAA Order 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 at Olney Municipal Airport, Olney, TX; removes the Olney NDB and associated extensions from the airspace legal description; removes the city associated with the airport in the header of the airspace legal description to comply with changes to FAA Order JO 7400.2N, Procedures for Handling Airspace Matters.

This action is the result of an airspace review due to the decommissioning of the Olney NDB which provided guidance to instrument procedures at this airport.

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.

* * * * *

ASW TX E5 Olney, TX [Amended]

Olney Municipal Airport, TX
(Lat. 33°21′03″ N, long. 98°49′09″ W)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of Olney Municipal Airport.

Issued in Fort Worth, Texas, on March 2, 2022.

Martin A. Skinner,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2022–04828 Filed 3–7–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 738 and 746

[Docket No. 220303–0068]

RIN 0694–AI76

Expansion of Sanctions Against the Russian Industry Sector Under the Export Administration Regulations (EAR)

AGENCY: Bureau of Industry and Security, Department of Commerce.

ACTION: Final rule.

SUMMARY: In response to the Russian Federation's (Russia's) further invasion of Ukraine, the Department of Commerce is expanding the existing sanctions against the Russian industry sector by adding a new prohibition under the Export Administration Regulations (EAR) that targets the oil refinery sector in Russia. These new export controls will further limit revenue that could support the military capabilities of Russia.

DATES: This rule is effective on March 3, 2022.

FOR FURTHER INFORMATION CONTACT: For questions on this final rule, contact Eileen Albanese, Director, Office of National Security and Technology Transfer Controls, Bureau of Industry and Security, Department of Commerce, Phone: (202) 482–0092, Fax: (202) 482–482–3355, Email: *rpd2@bis.doc.gov.* For emails, include ''Russia Industry Sector Sanctions Expansion'' in the subject line.

SUPPLEMENTARY INFORMATION:

I. Background

In response to Russia's February 2022 further invasion of Ukraine, the Bureau of Industry and Security (BIS) imposed extensive sanctions on Russia under the Export Administration Regulations (15 CFR parts 730–774) (EAR) as part of the final rule, *Implementation of Sanctions Against Russia Under the Export Administration Regulations (EAR),* effective February 24, 2022 (''Russia Sanctions rule'').[1] As described in the Russia Sanctions rule's preamble, Russia's invasion of Ukraine flagrantly violates international law, is contrary to U.S. national security and foreign policy interests, and undermines global order, peace, and security, and consequently necessitated the imposition of stringent sanctions.

The export control measures implemented in this final rule build upon the policy objectives set forth in the Russian Sanctions rule by further restricting Russia's access to items that it needs to support its military capabilities.

The changes made by this rule are intended to further limit the Russian oil sector by restricting the export, reexport and transfer (in-country) of additional items needed for oil refining. Sale of gasoline produced from Russian oil is a major source of revenue for Russia. Limiting the export, reexport and transfer (in-country) of critical oil refining equipment will consequently reduce Russia's ability to generate revenue that the country needs to support its military capabilities.

As described below, this rule expands the scope of the sanctions against the Russian industry sector that were originally added to the EAR in August 2014 in response to Russia's 2014 destabilizing conduct in Ukraine and occupation of the Crimea region of Ukraine. *See* 79 FR 45675 (Aug. 6, 2014). The export controls in this final rule target the oil refinery sector in Russia. These new export controls under the EAR, implemented in parallel with similarly stringent measures by partner and allied countries, will further limit sources of revenue that could support the military capabilities of Russia.

[1] 87 FR 12226 (March 3, 2022).

II. Overview of New Controls

This final rule amends part 746 of the EAR (Embargoes and Other Special Controls) to expand the scope of the Russian industry sector sanctions by adding a new general prohibition that will apply to additional Harmonized Tariff Schedule (HTS)-6 codes and Schedule B numbers for all exports, reexports, and transfers (in-country) to or within Russia.

III. Amendments to the Export Administration Regulations (EAR)

A. Expansion of Russian Industry Sanctions and Conforming Change

1. Expansion of Russian Industry Sector Sanctions by Adding a New Prohibition

Under § 746.5 of the EAR (Russian industry sector sanctions), this final rule revises paragraph (a) (License requirement) to expand the scope of the general prohibition under paragraph (a)(1). Prior to this rule, this general prohibition applied to the export, reexport or transfer (in-country) of certain items in situations where a person had ''knowledge,'' for purposes of the EAR, that the item would be used directly or indirectly in Russia's energy sector for exploration or production from deepwater, Arctic offshore, or shale projects in Russia that have the potential to produce oil or gas, or where a person was unable to determine whether the item would be used in such projects in Russia.

This final rule adds a new paragraph (a)(1)(ii) to expand the scope of the general prohibition under this section by imposing an additional license requirement for exports, reexports or transfers (in-country) of any item subject to the EAR listed in new supplement no. 4 to part 746 to and within Russia. Unlike the existing prohibition (reordered to appear in new paragraph (a)(1)(i)), the prohibition under new paragraph (a)(1)(ii) does not include a ''knowledge'' requirement.

This final rule also adds new paragraph (a)(1)(iii) to provide cross-references to other EAR license requirements for Russia and guidance for submitting license applications required pursuant to this section. Additionally, this final rule adds new

supplement no. 4 to part 746—HTS Codes and Schedule B Numbers that Require a License for Export, Reexport, and Transfer (in-country) to or within Russia pursuant to § 746.5(a)(1)(ii), to identify the items by HTS code and Schedule B number that will be subject to the prohibition under paragraph (a)(1)(ii). Supplement no. 4 will include four columns consisting of the HTS Code, HTS Description, Schedule B and Schedule B Description to assist exporters, reexporters, and transferors to identify the products in this supplement. There is no difference in the scope of products identified in the supplement by HTS–6 code and HTS description or by the Schedule B number and Schedule B description. The inclusion of both the HTS–6 codes and Schedule B numbers will assist exporters, reexporters, and transferors if they have difficulty in identifying a product based on either the HTS codes or Schedule B numbers alone.

Under paragraph (b) (Licensing policy), this final rule adds new paragraph (b)(1) for the text that appeared in paragraph (b) prior to this final rule, which will specify the licensing policy for the license requirements under new paragraph (a)(1)(i). This rule changes the license review policy that appeared in paragraph (b) which is now paragraph (b)(1) in this rule from a presumption of denial to the more restrictive policy of denial. This change in the license review policy is made to harmonize with the license review policy in new paragraph (b)(2) for the license requirements under paragraph (a)(1)(ii), as well as with the license review policies that have been adopted for other sanctions against Russia. This final rule adds a new paragraph (b)(2) to add the review policy, a policy of denial, that will be applicable to applications that fall within the scope of paragraph (a)(1)(ii). However, for both the license review policies in paragraphs (a)(1)(i) and (ii), this rule specifies that applications for export, reexport, or transfer (in-country) of items that may be necessary for health and safety reasons will be reviewed under a case-by case license review policy. This inclusion of this case-by-case license review policy is consistent with other parts of the Russia Sanctions rule, in particular, the inclusion of a case-by-case license review policy related to safety of flight and maritime safety. BIS also notes that license applicants may request emergency processing of license applications by following the procedures identified in § 748.4(h) (Emergency processing) of the EAR. Under § 748.4(h), BIS will expedite its evaluation, and attempt to expedite the evaluations of other government agencies, of a license application when, in BIS's judgment, the circumstances justify emergency processing.

BIS estimates that new license requirements under § 746.5(a)(1)(ii) will result in an additional 20 license applications being submitted to BIS annually.

2. Conforming Changes

Based on the foregoing changes to the EAR in § 746.5(a)(1) and the addition of supplement no. 4 to part 746, in supplement no 1 to part 738—Commerce Country Chart, this final rule also makes one conforming change to footnote 6 to the Commerce Country Chart to add a reference to new supplement no. 4 to part 746. This conforming revision is made so exporters, reexporters, and transferors are aware of the need to review supplement no. 4 to part 746 as part of their analysis of the license requirements in § 746.5(a)(1)(ii).

This rule also adds one sentence at the end of the introductory text of supplement no. 2 to part 746—Russian Industry Sector Sanction List—to provide guidance on one Schedule B number that is identified in both supplements no. 2 and no. 4 to part 746. This sentence clarifies that Schedule B number 8479.89.9850 is listed on both supplements no. 2 and 4, and that exporters, reexporters, and transferors must comply with the license requirements under both § 746.5(a)(1)(i) and (ii), as applicable, for Schedule B number 8479.89.9850.

3. Impact of These Changes on Entity List Entries That Reference § 746.5

This rule does not change the Entity List in supplement no. 4 to part 744. Seventy-five entries on the Entity List have a license requirement for all items subject to the EAR when used in projects specified in § 746.5 of the EAR. BIS clarifies here that for purposes of the Entity List entries that reference § 746.5, the license requirements set forth on the Entity List apply when items are used in the projects specified in § 746.5(a)(1)(i), but that exporters, reexporters, or transferors must also review the transaction against the license requirements in § 746.5(a)(1)(ii), as well as all other applicable EAR license requirements.

Savings Clause

For the changes being made in this final rule, shipments of items removed from eligibility for a License Exception or export, reexport, or transfer (in-country) without a license (NLR) as a result of this regulatory action that were en route aboard a carrier to a port of export, reexport, or transfer (in-country), on March 7, 2022, pursuant to actual orders for export, reexport, or transfer (in-country) to or within a foreign destination, may proceed to that destination under the previous eligibility for a License Exception or export, reexport, or transfer (in-country) without a license (NLR).

Export Control Reform Act of 2018

On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which included the Export Control Reform Act of 2018 (ECRA) (codified, as amended, at 50 U.S.C. Sections 4801–4852). ECRA provides the legal basis for BIS's principal authorities and serves as the authority under which BIS issues this rule.

Rulemaking Requirements

1. This final rule is not a ''significant regulatory action'' because it ''pertain[s]'' to a ''military or foreign affairs function of the United States'' under sec. 3(d)(2) of Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number.

This rule involves the following OMB-approved collections of information subject to the PRA: 0694–0088, ''Multi-Purpose Application,'' which carries a burden hour estimate of 29.6 minutes for a manual or electronic submission; 0694–0096 ''Five Year Records Retention Period,'' which carries a burden hour estimate of less than 1 minute; and 0607–0152 ''Automated Export System (AES) Program,'' which carries a burden hour estimate of 3 minutes per electronic submission. This rule changes the respondent burden under these control numbers by increasing the estimated number of submissions by 20 which is not expected to exceed the current approved estimates.

3. This rule does not contain policies with federalism implications as that term is defined in Executive Order 13132.

4. Pursuant to section 1762 of the Export Control Reform Act of 2018 (50 U.S.C. 4821) (ECRA), this action is exempt from the Administrative Procedure Act (APA) (5 U.S.C. 553) requirements for notice of proposed rulemaking, opportunity for public participation, and delay in effective date. While section 1762 of ECRA provides sufficient authority for such an exemption, this action is also independently exempt from these APA requirements because it involves a military or foreign affairs function of the United States (5 U.S.C. 553(a)(1)).

5. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* are not applicable. Accordingly, no regulatory flexibility analysis is required and none has been prepared.

List of Subjects

15 CFR Part 738

Exports.

15 CFR Part 746

Exports, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, parts 738 and 746 of the Export Administration Regulations (15 CFR parts 730 through 774) are amended as follows:

PART 738—COMMERCE CONTROL LIST OVERVIEW AND THE COUNTRY CHART

■ 1. The authority citation for 15 CFR part 738 continues to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* 10 U.S.C. 8720; 10 U.S.C. 8730(e); 22 U.S.C. 287c; 22 U.S.C. 2151 note; 22 U.S.C. 3201 *et seq.;* 22 U.S.C. 6004; 42 U.S.C. 2139a; 15 U.S.C. 1824; 50 U.S.C. 4305; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783.

■ 2. Supplement no. 1 to part 738 is amended by revising footnote 6 to read as follows:

Supplement No. 1 to Part 738—Commerce Country Chart

* * * * *

[6] See § 746.5 of the EAR for additional license requirements under the Russian industry sector sanctions for ECCNs 0A998, 1C992, 3A229, 3A231, 3A232, 6A991, 8A992, and 8D999 and items identified in supplements no. 2 and no. 4 to part 746 of the EAR. See § 746.8 of the EAR for Sanctions against Russia and Belarus, including additional license requirements for items listed in any ECCN in Categories 3, 4, 5, 6, 7, 8, or 9 of the CCL.

* * * * *

PART 746—EMBARGOES AND OTHER SPECIAL CONTROLS

■ 3. The authority citation for 15 CFR part 746 continues to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 287c; Sec 1503, Pub. L. 108–11, 117 Stat. 559; 22 U.S.C. 2151 note; 22 U.S.C. 6004; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 12854, 58 FR 36587, 3 CFR, 1993 Comp., p. 614; E.O. 12918, 59 FR 28205, 3 CFR, 1994 Comp., p. 899; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13338, 69 FR 26751, 3 CFR, 2004 Comp., p 168; Presidential Determination 2003–23, 68 FR 26459, 3 CFR, 2004 Comp., p. 320; Presidential Determination 2007–7, 72 FR 1899, 3 CFR, 2006 Comp., p. 325; Notice of May 6, 2021, 86 FR 26793 (May 10, 2021).

■ 4. Section 746.5 is amended by revising paragraphs (a)(1) and (b) to read as follows:

§ 746.5 Russian industry sector sanctions.

(a) * * *

(1) *General prohibition.* (i) A license is required to export, reexport or transfer (in-country) any item subject to the EAR listed in supplement no. 2 to this part and items specified in ECCNs 0A998, 1C992, 3A229, 3A231, 3A232, 6A991, 8A992, and 8D999 when you ''know'' that the item will be used directly or indirectly in exploration for, or production of, oil or gas in Russian deepwater (greater than 500 feet) or Arctic offshore locations or shale formations in Russia, or are unable to determine whether the item will be used in such projects. Such items include, but are not limited to, drilling rigs, parts for horizontal drilling, drilling and completion equipment, subsea processing equipment, Arctic-capable marine equipment, wireline and down hole motors and equipment, drill pipe and casing, software for hydraulic fracturing, high pressure pumps, seismic acquisition equipment, remotely operated vehicles, compressors, expanders, valves, and risers.

(ii) A license is required to export, reexport, or transfer (in-country) any item subject to the EAR listed in supplement no. 4 to this part to or within Russia.

(iii) You should be aware that other provisions of the EAR, including parts 742 and 744 and § 746.8, also apply to exports and reexports to Russia. License applications submitted to BIS under this section may include the phrase ''section 746.5(a)(1)(i)'' or ''section 746.5(a)(1)(ii)'' in Block 9 (Special Purpose) as described in supplement no. 1 to part 748 of the EAR.

* * * * *

(b) *Licensing policy.* (1) Applications for the export, reexport, or transfer (in-country) of any item pursuant to paragraph (a)(1)(i) of this section that requires a license for Russia will be reviewed under a policy of denial when for use directly or indirectly for exploration or production from deepwater (greater than 500 feet), Arctic offshore, or shale projects in Russia that have the potential to produce oil or gas, except that applications for export, reexport, or transfer (in-country) of items that may be necessary for health and safety reasons will be reviewed under a case-by case license review policy.

(2) Applications for the export, reexport, or transfer (in-country) of any item pursuant to paragraph (a)(1)(ii) of this section that requires a license for Russia will be reviewed under a policy of denial, except that applications for export, reexport, or transfer (in-country) of items that may be necessary for health and safety reasons will be reviewed under a case-by case license review policy.

* * * * *

■ 5. Supplement no. 2 to part 746 is amended by adding a sentence to the end of the introductory text to read as follows:

Supplement No. 2 to Part 746—Russian Industry Sector Sanction List

* * * Schedule B number 8479.89.9850 is listed on both supplements no. 2 and 4 to this part, so exporters, reexporters, and transferors must comply with the license requirements under both § 746.5(a)(1)(i) and (ii) as applicable.

* * * * *

■ 6. Add supplement No. 4 to part 746 to read as follows:

Supplement No. 4 to Part 746—HTS Codes and Schedule B Numbers That Require a License for Export, Reexport, and Transfer (In-Country) to or Within Russia Pursuant to § 746.5(a)(1)(ii)

The source for the Harmonized Tariff Schedule (HTS)-6 codes and descriptions and Schedule B numbers and descriptions in this list comes from the Bureau of the Census's Schedule B concordance of exports 2022. Census's Schedule B List 2022 can be found at *www.census.gov/foreign-trade/aes/documentlibrary/#concordance.* The Introduction Chapter of the Schedule B provides important information about classifying products and interpretations of the Schedule B, *e.g.,* NESOI means

Not Elsewhere Specified or Included. In addition, important information about products within a particular chapter may be found at the beginning of chapters. This supplement includes four columns consisting of the HTS Code, HTS Description, Schedule B and Schedule B Description to assist exporters, reexporters, and transferors in identifying the products in this supplement no. 4 to this part. For information on HTS codes in general, you may contact a local import specialist at U.S. Customs and Border Protection at the nearest port. Schedule B number 8479.89.9850 is listed on both supplements no. 2 and 4 to this part, so exporters, reexporters, and transferors must comply with the license requirements under both § 746.5(a)(1)(i) and (ii) as applicable.

Harmonized tariff schedule (HTS)—6 code	HTS description	Schedule B	Schedule B description
847989 or 854370	Alkylation and isomerization units	8479.89.9850 or 8479.89.9900	—Oil and gas field wire line and downhole equipment, or —Other.
847989 or 854370	Aromatic hydrocarbon production units.	8479.89.9850 or 8479.89.9900	—Oil and gas field wire line and downhole equipment, or —Other.
841940	Atmospheric—vacuum crude distillation units (CDU).	8419.40.0080	—Other.
847989 or 854370	Catalytic reforming/cracker units	8543.70.9665	—Other.
841989, 841989 or 841989	Delayed cokers	8419.89.9585	—For other materials.
841989, 841989 or 841989	Flexicoking units	8419.89.9585	—For other materials.
847989	Hydrocracking reactors	8479.89.9850, or 8479.89.9900	—Oil and gas field wire line and downhole equipment, or —Other.
841989, 841989, 841989, or 847989.	Hydrocracking reactor vessels	8419.89.9585	—For other materials.
847989 or 854370	Hydrogen generation technology	8479.89.9850, or 8479.89.9900	—Oil and gas field wire line and downhole equipment, or —Other.
842139, 842139, 842139, 842139, 847989 or 854370.	Hydrogen recovery and purification technology.	8421.39.0140, or 8421.39.0190	—Gas separation equipment, or —Other.
847989 or 854370	Hydrotreatment technology/units	8479.89.9850, or 8479.89.9900	—Oil and gas field wire line and downhole equipment, or —Other.
847989 or 854370	Naphtha isomerisation units	8479.89.9850, or 8479.89.9900	—Oil and gas field wire line and downhole equipment, or —Other.
847989 or 854370	Polymerisation units	8479.89.9850, or 8479.89.9900	—Oil and gas field wire line and downhole equipment, or —Other.
841989, 841989, or 841989, 847989 or 854370.	Refinery fuel gas treatment and sulphur recovery technology (including amine scrubbing units, sulphur recovery units, tail gas treatment units).	8419.89.9585	—For other materials.
845690, 847989 or 854370	Solvent de—asphalting units	8456.90.7100, 8479.89.9850, or 8479.89.9900.	—Other — —Oil and gas field wire line and downhole equipment, or —Other.
847989 or 854370	Sulphur production units	8479.89.9850, or 8479.89.9900	—Oil and gas field wire line and downhole equipment, or —Other.
847989 or 854370	Sulphuric acid alkylation and sulphuric acid regeneration units.	8479.89.9850, or 8479.89.9900	—Oil and gas field wire line and downhole equipment, or —Other.
841989, 841989, or 841989, 847989 or 854370.	Thermal cracking units	8419.89.9585, 8479.89.9850, or 8479.89.9900.	—For other materials, —Oil and gas field wire line and downhole equipment, or —Other.
847989 or 854370	[Toluene and heavy aromatics] Transalkylation units.	8479.89.9850, or 8479.89.9900	—Oil and gas field wire line and downhole equipment, or —Other.
847989 or 854370	Visbreakers	8479.89.9850, or 8479.89.9900	—Oil and gas field wire line and downhole equipment, or —Other.
847989 or 854370	Vacuum gas oil hydrocracking units.	8479.89.9850, or 8479.89.9900	—Oil and gas field wire line and downhole equipment, or —Other.

Thea D. Rozman Kendler,
Assistant Secretary for Export Administration.

[FR Doc. 2022–04912 Filed 3–3–22; 3:15 pm]
BILLING CODE 3510–33–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2016–0963]

RIN 1625–AA09

Drawbridge Operation Regulation; Tchefuncta River

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the operating schedule that governs the State Route 22 (SR 22) drawbridge across the Tchefuncta River mile 2.5, Madisonville, St. Tammany Parish, Louisiana. This action is necessary to relieve vehicular traffic congestion along SR 22 near Madisonville, LA during peak traffic periods on weekdays.

DATES: This rule is effective April 7, 2022.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov.* Type USCG–2016–0963 in the ''SEARCH'' box and click ''SEARCH.'' In the Document Type column, select ''Supporting & Related Material.''

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email call or email Mr. Doug Blakemore, Eighth Coast Guard District Bridge Administrator; telephone (504) 671–2128, email *Douglas.A.Blakemore@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
OMB Office of Management and Budget
NPRM Notice of Proposed Rulemaking (Advance, Supplemental)
§ Section
SR State Road
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard has published numerous rulemaking documents in the **Federal Register** on this bridge: A temporary deviation to the regulations November 4, 2016 (81 FR 76866); NPRM November 4, 2016 (81 FR 76889); a Supplemental NPRM June 14, 2018 (83 FR 27730); and a final rule October 25, 2018 (85 FR 53810). Each rulemaking addressed changing the operating schedule to the bridge to relieve vehicle congestion along SR 22 in Madisonville, LA.

On April 23, 2021 the Town of Madisonville, LA requested that the Coast Guard revisit changing the operating schedule and close the drawbridge to vessel traffic during morning vehicle peak periods and that the bridge only open to vessels during the day on the hour. The Coast Guard published a NPRM August 31, 2021 (86 FR 48923) to solicit public comments on this proposed rule change.

The Coast Guard determined that the Town of Madisonville had provided sufficient information to relieve vehicle congestion by closing the bridge to vessel traffic from 6 a.m. to 8 a.m. and 4 p.m. to 6 p.m. and opening the bridge from 8 a.m. to 4 p.m. on the hour vice every half hour. This change allows vehicles to travel along SR 22 unimpeded by bridge openings for 2 two periods during the weekday morning and afternoon commutes. It also decreases the number of times that the bridge opens during the day by opening on the hour for vessels to pass 7 days a week. During the comment period that ended on November 1, 2021, we received 18 comments.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority 33 U.S.C. 499. The Eighth Coast Guard District Commander has determined that this change to the operating schedule of the Madisonville (SR 22) swing span drawbridge across the Tchefuncta River mile 2.5, Madisonville, St. Tammany Parish, Louisiana allows it to remain closed to marine traffic for 2 two hour periods and to open on the hour during days is necessary and reasonable. The purpose of this rule is to alleviate vehicle congestion on SR 22 and meet the reasonable needs of vessels to use the Tchefuncta River.

IV. Discussion of Comments, Changes and the Final Rule

As mentioned above we received 18 comments on the NPRM published August 1, 2021. Fifteen comments were in favor of the rule change. One comment was against the rule change and 2 comments addressed other issues not related to the NPRM. The commenter against the rule stated that the rule would have little impact to vehicle traffic because there are few bridge openings during weekdays, minimal openings in the afternoon peak vehicle traffic hours and there are minimal bridge openings on the weekends.

Vehicle congestion along SR 22 is well documented by other public comments, meetings, and data and information gathered during this rule change. Vehicle congestion is particularly significant during morning and evening commuting and school hours. In promulgating drawbridge rules the Coast Guard balances the needs of land transportation and vessel traffic. The bridge opens on average 8 times per day Monday through Sunday. The rule will provide a positive impact to vehicle traffic by reducing the amount of time that the bridge is required to open and will provide vessels with the reasonable ability to use the waterway.

This final rule changes the Madisonville (SR 22) swing span bridge operating schedule and allows the bridge to open on signal on the hour from 6 a.m. to 6 p.m. except that on Monday through Friday the bridge will not open from 6 a.m. to 8 a.m. and from 4 p.m. to 6 p.m. The bridge opens on signal from 6 p.m. to 6 a.m. each day. This allows vehicles to travel along SR 22 near Madisonville, LA unimpeded by bridge openings at the above times. There are no other changes to the operating schedule. The regulatory text appears at the end of this document.

IV. 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 protesters.

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, it has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the ability that vessels can still transit the bridge given advanced notice.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 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 received no comments from the Small Business Administration on this rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the bridge may be small entities, for the reasons stated in section IV.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 contact 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 calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Government

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01, Rev.1, associated implementing instructions, and Environmental Planning Policy COMDTINST 5090.1 (series) which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f). The Coast Guard has 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 promulgates the operating regulations or procedures for drawbridges and is categorically excluded from further review, under paragraph L49, of Chapter 3, Table 3–1 of the U.S. Coast Guard Environmental Planning Implementation Procedures.

Neither a Record of Environmental Consideration nor a Memorandum for the Record are required for this rule.

G. Protest Activities

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

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; and Department of Homeland Security Delegation No. 0170.1.

■ 2. Revise § 117.500 to read as follows:

§ 117.500 Tchefuncta River.

The draw of the SR 22 Bridge, mile 2.5, at Madisonville, LA shall operate according to the following schedule. On Monday through Friday the draw will operate as follows: From 6 p.m. to 5:59 a.m. the draw will open on signal; from 6 a.m. to 7:59 a.m. the draw need not open; from 8 a.m. to 4 p.m. the draw will open on signal on the hour; from 4:01 p.m. to 6 p.m. the draw need not open. On Saturday and Sunday the draw will operate as follows: From 6 p.m. to 6 a.m. the draw will open on signal; from 6 a.m. to 6 p.m. the draw will open on signal on the hour.

Dated: February 3, 2022.

R.V. Timme,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 2022–04860 Filed 3–7–22; 8:45 am]

BILLING CODE 9110–04–P

LIBRARY OF CONGRESS

Copyright Office

37 CFR Parts 201 and 222

[Docket No. 2021–6]

Copyright Claims Board: Initiating of Proceedings and Related Procedures—Designation of Agents for Service of Process

AGENCY: U.S. Copyright Office, Library of Congress.

ACTION: Final rule.

SUMMARY: The U.S. Copyright Office is amending its regulations to establish procedures governing the process by which corporations, partnerships, and unincorporated associations may designate agents to receive service of the initial notice of a proceeding and claim asserted against them before the Copyright Claims Board. The amended regulations provide the requirements for designating a service agent, amending

the designation, and maintaining the directory of designated service agents.

DATES: Effective April 7, 2022.

FOR FURTHER INFORMATION CONTACT: Megan Efthimiadis, Assistant to the General Counsel, by email at *meft@copyright.gov,* or by telephone at 202–707–8350.

SUPPLEMENTARY INFORMATION: On September 29, 2021, the Office published a notice of proposed rulemaking (''NPRM'') to establish procedures governing the initial stages of a proceeding before the Copyright Claims Board (''CCB'').[1] The Office is finalizing aspects of that proposed rule addressing the CCB's designated service agent directory in this partial final rule. The Office anticipates publishing another final rule in the future addressing the remainder of the proposed changes.

I. Background

The Copyright Alternative in Small-Claims Enforcement (''CASE'') Act of 2020 [2] directs the Copyright Office to establish the CCB, a voluntary tribunal within the Office comprised of three Copyright Claims Officers who have the authority to render determinations on certain copyright claims for economic recoveries under the statutory threshold. The Office issued a notification of inquiry (''NOI'') to describe the CASE Act's legislative background and regulatory scope and to ask for public input on various topics,[3] including a provision of the Act permitting corporations, partnerships, and unincorporated associations to designate agents to receive service of notices of proceedings and claims asserted against them.[4] The CASE Act provides that service upon an entity that has designated a service agent must be made by delivering a copy of the notice and claim to that agent.[5] The CASE Act also provides an alternative means for service upon corporations, partnerships, and unincorporated associations that have not designated a service agent.[6]

Under the CASE Act, such entities may designate an agent ''by complying with requirements that the Register of Copyrights shall establish by regulation'' and the Register is directed to ''maintain a current directory of service agents that is available to the public for inspection, including through the internet.'' [7] The Register may require designating entities to pay a fee to cover the costs of maintaining the directory.[8]

In September 2021, the Office published a NPRM to establish procedures governing the initial stages of a proceeding before the CCB.[9] Among the provisions proposed in that notice were rules governing the process for designating a service agent. In both the NOI and the NPRM, the Office requested input on issues related to service of process and other papers in general as well as the designation of service agents in particular. Commenting parties were encouraged to review the Office's designated agent directory for online service providers created pursuant to the Digital Millennium Copyright Act (''DMCA''), and to discuss to what extent the Office should use that directory as a model. The Office also invited comments about how the system should indicate corporate parent-subsidiary relationships, and about fees.[10]

The NPRM proposed a rule that would allow a submitter to provide the same designated agent information for multiple companies, partnerships, or unincorporated associations, but would require a separate submission for each entity. The proposal would have required that a submission include identifying information for the business, including contact information, principal place of business, and for corporations, the state of incorporation, any associated state file or registration number, and all other states in which the corporation is registered to do business. It would have permitted organizations to list up to five alternate names under which they are doing business, *i.e.,* trade names, which would be used for indexing the designation. Submissions would also have to provide contact information for the service agent and the designating entity's consent to service by mail, with an option to elect, in addition, to accept service by email at an email address to be provided in the directory. Unlike the DMCA designated agent directory, the CCB's designated service agent directory (''DSAD'') would not have to be renewed periodically, although existing designations could be amended by the designating entity.[11]

Noting that the fee for designating an agent in the DMCA designated agent directory is $6,[12] the Office proposed the same fee for submitting or amending a designation to the DSAD.[13]

II. Discussion

A. Limited Scope of This Rule

The NPRM addressed numerous issues concerning the initial stages of a CCB proceeding, and a final rule addressing the rest of those issues is forthcoming. Meanwhile, to facilitate the submission of service agent designations in advance of the CCB's acceptance of claims, the Office is publishing this final rule on designating service agents before publishing that forthcoming rule.

B. Overview

With a few exceptions discussed below, commenters generally supported the NPRM's proposed provisions on designating service agents. In response to those comments and for other reasons explained herein, the Office has revised the proposed rule to allow, under certain circumstances, inclusion of multiple affiliated entities in a single service agent designation, to increase the number of trade names that may be associated with an entity making a designation, and to make minor modifications regarding the information that must be provided in a designation. The final rule also includes some nonsubstantive technical edits to clarify the regulatory text, as well as the additional minor substantive edits described below.

The relevant proposed regulatory text in the NPRM was set forth as § 222.5(b) of the CCB regulations. For purposes of this final rule, the revised text has been removed from proposed § 222.5 (''Service'') and has become a new section, § 222.6 (''Designated service agents''). In the forthcoming final rule governing other aspects of the initial stages of CCB proceedings, proposed § 222.6 (addressing waiver of service) will be included as part of § 222.5.

C. Inclusion of Affiliated Entities in a Single Designation

The proposed rule would have permitted a qualifying entity to provide the same designated agent information for related companies, partnerships, or unincorporated associations, but would have required a separate submission for each of those related entities. The proposed rule followed the model of the

[1] 86 FR 53897 (Sept. 29, 2021).

[2] Public Law 116–260, sec. 212, 134 Stat. 1182, 2176 (2020).

[3] 86 FR 16156, 16161 (Mar. 26, 2021).

[4] 15 U.S.C. 1506(g)(5)(B).

[5] *Id.* at 1506(g)(5)(A).

[6] *Id.* at 1506(g)(5)(A)(i)–(ii).

[7] *Id.* at 1506(g)(5)(B).

[8] *Id.*

[9] 86 FR 53897.

[10] *Id.* at 53900–01; 86 FR at 16160.

[11] 86 FR at 53900–01; *see also id.* at 53907–08 (proposing § 222.5(b)).

[12] 37 CFR 201.3(c)(23) (assigning the fee for ''[d]esignation of agent under 17 U.S.C. 512(c)(2) to receive notification of claimed infringement, or amendment or resubmission of designation'').

[13] 86 FR at 53904; *see also id.* at 53905 (proposing § 201.3(g)(2)).

Office's regulation governing the DMCA designated agent directory, which provides that ''[r]elated or affiliated service providers that are separate legal entities (*e.g.,* corporate parents and subsidiaries) are considered separate service providers, and each must have its own separate designation.'' [14]

Multiple commenters urged that the final rule permit a corporate parent to designate a single designated agent for affiliated corporations as part of a single submission. One commenter summarized the position, similar to those taken by others, by noting that under the Office's proposed rule, ''companies with numerous subsidiaries may find it too burdensome to provide a separate submission for each subsidiary and will simply decline to designate a service agent. That would inconvenience copyright claimants, who will presumably rely on the designated service agent directory to determine where to serve their claim.'' [15] Another commenter observed that its members anticipate needing to register service agents for many more entities under CCB than under the DMCA, as the range of activities relevant to DMCA designated agents is much narrower.[16]

The Office finds that the arguments advanced by proponents of permitting affiliated business entities to file a single service agent designation are persuasive. It is in the interest of entities that designate service agents to have a system that encourages them to designate agents for all of their affiliated entities. It is also in the interest of all parties in CCB proceedings to have access to a directory of service agents that is comprehensive and facilitates their ability to take advantage of the more relaxed service requirements (including service by mail and, when the designating entity has agreed, by email) that apply to designated service agents. To implement such a revision, the Office finds it necessary to modify some of the other proposed requirements for service agent designations and impose some limitations.

Because the term ''related'' entities may be considered ambiguous, and to offer greater guidance as to what additional entities would be permitted to be included in a single service agent designation by a corporation, partnership, or unincorporated association, the final rule uses the term ''affiliated,'' which connotes a closer relationship than ''related.'' The following elaboration has been added to the regulatory text: ''Affiliated corporations, partnerships, or unincorporated associations that are separate legal entities but are under direct or indirect common control (*e.g.,* parent and subsidiary companies) may also be included in the same service agent designation.'' The concept of direct or indirect common control among affiliated entities is common in various areas of the law.[17]

Because the Office's electronic DSAD system was at an advanced stage of development at the time the comments were received, there are certain constraints on the way in which affiliated entities can currently be included within a single designation. As discussed below, the system was already being built to accommodate up to five trade names based on a single designation. It is now being adapted to permit a combination of up 50 trade names and to enable affiliated entities to be included, indexed, and searchable based on a single designation. To be included as part of a single designation, affiliated entities must have their principal place of business in the same state and, for corporations, they must have the same state of incorporation. In addition, the names and contact information of the designated service agent and of the submitter must each be the same. The Office considers information regarding the principal place of business and state of incorporation to be important for purposes of providing accurate identification of the entity and avoiding misidentification (*e.g.,* in cases involving entities from different states with identical or similar names), and the system can only accommodate single designations for multiple entities where that information is identical.

With respect to an entity's principal place of business, the rule has been modified to clarify that the required information pertains to *the state* in which the entity's principal place of business is located. This modification has been made for three reasons: (1) To clarify ambiguous text in the proposed rule; (2) to facilitate the ability to submit designations for groups of affiliated entities, since requiring that the principal place of business for all affiliated entities be at the same address would likely disqualify many affiliated entities from being included in a single designation; and (3) to conform to the design of the electronic DSAD system.

For corporations, the proposed rule also would have required that the designation provide any state file or registration numbers from the state of incorporation, as well as identification of all additional states in which the corporation is registered to do business. Because a parent corporation and its subsidiaries or other affiliated corporations are not necessarily registered to do business in the same group of states, retaining this requirement would be likely to restrict significantly the ability of affiliated corporations to be included in a single designation. Commenters observed that it is not clear what benefit would be gained by requiring corporations to include, for themselves and their subsidiaries, state file or registration numbers and information on all states in which they are registered to do business; that requiring such information would be burdensome; and that such information is already readily available elsewhere, in a form that is accurate and up to date.[18] The Office is persuaded that the time and costs involved in requiring such information outweigh the benefits, and those requirements have been removed in the final rule.

Finally, the rule requires that the following information be the same for all entities included in a single designation: Information pertaining to the designated agent; information pertaining to the person submitting the designation; and information on whether service may be made by email and mail or just mail.

D. The Number of Trade Names Permitted in a Single Designation

The proposed rule would have permitted qualifying entities to list no more than five trade names (alternate business names or ''doing business as'' (d/b/a) names) under which they are doing business. Inspired by a similar provision in the DMCA designated agent regulation, this would permit persons

[14] 37 CFR 201.38(b)(1)(i).

[15] *See, e.g., Amazon.com,* Inc. (''Amazon'') Initial NPRM Comments at 5; *see also* Computer & Comm's Indus. Ass'n (''CCIA'') & internet Ass'n Initial NPRM Comments at 4; Motion Picture Ass'n, Recording Indus. Ass'n of Am. & Software and Info. Ass'n of Am. (''MPA, RIAA & SIIA'') Initial NPRM Comments at 5–6; Verizon Initial NPRM Comments at 2.

[16] MPA, RIAA & SIIA Initial NPRM Comments at 5–6.

[17] *See, e.g.,* 26 U.S.C. 168(h)(4)(B)(ii) (defining ''related entities,'' for certain federal income tax purposes, as entities having ''directly or indirectly substantial common direction or control''); 47 U.S.C. 152(b) (withholding FCC jurisdiction over a ''carrier engaged in interstate or foreign communication solely through physical connection with the facilities of another carrier not directly or indirectly controlling or controlled by, or under direct or indirect common control with such carrier''); 15 U.S.C. 78l(b)(1) (requiring applications for registration of a security with SEC to include information regarding ''the issuer and any person directly or indirectly controlling or controlled by, or under direct or indirect common control with, the issuer'').

[18] Amazon Initial NPRM Comments at 5; Verizon Initial NPRM Comments at 2.

using the DSAD to more easily identify the designated agent for companies that might do business—and be recognized by the public—under names other than their corporate names. The DMCA directory imposes no limit on the number of ''alternate names'' (the term used in the regulation governing that directory) [19] that an online service provider may include for indexing and search purposes. However, based on the Office's understanding of the technical limitations of the electronic DSAD that it was developing at the time the NPRM was drafted, it proposed a five-trade-name maximum.

Some commenters objected to the five-trade-name maximum, noting that if a single entity does business under different names, all such names should be included on the same designation and observing that many entities, such as record companies, operate multiple imprints or labels that are trade names that are part of the same legal entity.[20] Those comments, as well as the comments discussed above urging that the Office accept designations submitted on behalf of multiple designated entities, have persuaded the Office to raise the permitted number of trade names to 50,[21] and to permit those 50 to be either trade names or the names of affiliated entities.

E. Additional Revisions

Other minor substantive revisions include a duty to maintain current information in the directory by submitting amendments when the information changes and a minor revision to the provision stating what information in a designation shall not be made publicly available on the DSAD website.

Regarding the obligation to keep directory information current, one commenter noted that large corporations will have a long and frequently changing list of related or affiliated corporations as well as partnerships and other associations, and encouraged the Office to provide sufficient leniency to correct any changes to corporate information and acknowledge that yearly updates should be deemed to be reasonable compliance.[22] While the Office understands that changes may not be made instantaneously, there can be serious consequences, such as the service of claims on a person whom the designating entity no longer considers to be the correct service agent, when the directory contains out-of-date information. Therefore, any rule that would permit a business to defer an update of information in the directory as long as a year after the information has changed would be unacceptable. The final rule provides that when information that is in the directory is no longer valid, it should be updated promptly. While the Office does not believe that it is necessary to require updates on a regular basis, a requirement to update the information whenever it changes should ensure that it is kept up to date. Because there may be instances where a brief but understandable delay in updating the information results in service upon someone whom the designating entity no longer considers to be its service agent, the final rule provides that the CCB has the discretion to decide in particular cases whether service of an initial notice and claim was effective. However, an entity that has designated a service agent should be aware that if service is made upon the person who, at the time of service, appears in the directory as the respondent's designated service agent, that service is likely to be deemed effective. This should provide sufficient incentive to update the information promptly.[23]

With respect to the public availability of DSAD information, the proposed rule would have provided that the business address, email, and telephone number of the corporation, partnership, or unincorporated association provided in the designation would not be publicly available on the DSAD website, but would be available to CCB staff. As revised, the entity's business address is removed from that provision. Although the Office has no present intention to include that information in the directory on the website, it recognizes that the business address of a business entity is not generally considered to be confidential information and that there may be occasions where knowledge of the business address may be helpful in determining which of two or more similarly or identically named entities is the one that a claimant needs to serve.

F. Fee

In the NPRM, the Office proposed a fee of $6 for designation of a service agent, payable upon the submission or amendment of a designation. The Office noted that this is the fee charged for submissions to the Office's similar DMCA designated agent directory. One comment suggested that the fee should be increased, noting that designations of agents for the DMCA directory must be updated every three years, but designations for the CCB service agent directory need not be renewed.[24] While recognizing that distinction, the Office does not believe that a higher fee is justified at this time. The DSAD offers benefits not only to the entities that take advantage of the opportunity to designate service agents, but also to claimants in CCB proceedings who can use it to identify the agents to serve on behalf of the designating entities. Because an entity designating a service agent must accept service by mail and may also accept service by email, the directory provides claimants with a simple and inexpensive means to serve initial notices of proceedings and claims upon respondents who have designated service agents.

Moreover, as previously discussed, a provision added to the final rule obligates designating entities to maintain current information in the directory by amending an existing designation (and paying an additional $6 fee) whenever an update is needed. As a practical matter, most entities with designated agents are likely to have to submit amendments from time to time.

G. Mandatory Service on Designated Service Agent

The CASE Act requires that when a qualifying entity has designated a service agent, a claimant must serve the initial notice and claim upon that agent.[25] Many commenters requested that the regulations clarify that this is the case.[26] The Office agrees with that interpretation of the statute.

[19] 37 CFR 201.38(b)(2).

[20] MPA, RIAA & SIIA Initial NPRM Comments at 6–7; *see also* Verizon Initial NPRM Comments at 4.

[21] The Office has adopted a 50-trade-name maximum after consulting with the developers of the electronic DSAD, who are confident that the system will be able to accommodate up to 50 names per entity, but not necessarily a greater number in the available time before its launch.

[22] Verizon Initial NPRM Comment at 2.

[23] Although a change in the identity of the designated service agent is the most crucial information in the directory, delays in updating other information can also have consequences. Information such as legal name of a corporation, partnership, or unincorporated association, or about the principal place of business or state of incorporation, can be of great assistance to a claimant in identifying the correct respondent to be served.

[24] Copyright Alliance, Am. Photographic Artists, Am. Soc'y for Collective Rights Licensing, Am. Soc'y of Media Photographers, The Authors Guild, CreativeFuture, Digital Media Licensing Ass'n, Graphic Artists Guild, Indep. Book Pubs. Ass'n, Music Artists Coalition, Music Creators N. Am., Nat'l Music Council of the U.S.A., Nat'l Press Photographers Ass'n, N. Am. Nature Photography Ass'n, Prof'l Photographers of Am., Recording Acad., Screen Actors Guild-Am. Fed. of Television & Radio Artists, Soc'y of Composers & Lyricists, Songwriters Guild of Am. & Songwriters of N. Am. (''Copyright Alliance et al.'') Initial NPRM Comments at 15–16.

[25] 17 U.S.C. 1506(g)(5).

[26] *See, e.g.,* MPA, RIAA & SIIA Initial NPRM Comments at 7–8; Verizon Initial NPRM Comments at 4; Copyright Alliance et al. Reply NPRM Comments at 14–15.

Accordingly, in the interests of avoiding confusion, the Office shall address that issue in its forthcoming final rule addressing the remaining portions of the rulemaking on initiating proceedings, including § 222.5 on service.

List of Subjects

37 CFR Part 201

Copyright, General provisions.

37 CFR Part 220

Claims, Copyright, General.

Final Regulations

For the reasons stated in the preamble, the U.S. Copyright Office amends Chapter II, Subchapters A and B, of title 37 Code of Federal Regulations as follows:

SUBCHAPTER A—COPYRIGHT OFFICE AND PROCEDURES

PART 201—GENERAL PROVISIONS

■ 1. The authority citation for part 201 continues to read as follows:

Authority: 17 U.S.C. 702.

■ 2. In § 201.3, revise the section heading and add paragraph (g) to read as follows:

§ 201.3 Fees for registration, recordation, and related services, special services, and services performed by the Licensing Section and the Copyright Claims Board.

* * * * *

(g) *Copyright Claims Board fees.* The Copyright Office has established the following fees for specific services related to the Copyright Claims Board:

TABLE 4 TO PARAGRAPH (g)

Copyright Claims Board fees	Fees ($)
(1) [Reserved]	
(2) Designation of a service agent by a corporation, partnership, or unincorporated association under 17 U.S.C. 1506(g)(5)(B), or amendment of designation	6

SUBCHAPTER B—COPYRIGHT CLAIMS BOARD AND PROCEDURES

■ 3. Add part 222 to read as follows:

PART 222—PROCEEDINGS

Sec.
222.1–222.5 [Reserved]
222.6 Designated service agents.

Authority: 17 U.S.C. 702, 1510.

§ 222.1–222.5 [Reserved]

§ 222.6 Designated service agents.

(a) *In general.* A corporation, partnership, or unincorporated association that is entitled under 17 U.S.C. 1506(g)(5)(B) to designate a service agent to receive notice of a claim may designate such an agent by submitting the designation electronically through the Board's designated service agent directory, which shall be available on the Board's website.

(b) *Designation fee.* A service agent designation shall be accompanied by the fee set forth in 37 CFR 201.3.

(c) *Trade names and affiliated entities*—(1) *Trade names.* Each corporation, partnership, or unincorporated association that submits a service agent designation may include up to 50 trade names that function as alternate business names (*i.e.,* ''doing business as'' or ''d/b/a'' names) under which such registered corporation, partnership, or unincorporated association is doing business.

(2) *Affiliated entities.* Affiliated corporations, partnerships, or unincorporated associations that are separate legal entities but are under direct or indirect common control (*e.g.,* parent and subsidiary companies) of the filing corporation, partnership, or unincorporated association may also be included in the same service agent designation, but only if all of the information required in paragraph (d)(1)(ii), (iii), and (v) through (vii) of this section is the same for the filing corporation, partnership, or unincorporated association and the affiliated corporation, partnership, or unincorporated association. Otherwise, those separate legal entities must file separate service agent designations, although a submitter may designate the same service agent for multiple corporations, partnerships, or unincorporated associations.

(d) *Content of submission*—(1) *In general.* The designated service agent submission shall include:

(i) The legal name, business address, email address, and telephone number of the corporation, partnership, or unincorporated association;

(ii) The state in which the principal place of business of the corporation, partnership, or unincorporated association is located;

(iii) For corporations, the state or territory (including the District of Columbia) of incorporation;

(iv) Up to 50 additional names, consisting of either the names of affiliated entities or trade names, or both, as described in paragraph (c) of this section;

(v) The name, business address (or, if the agent does not have a business address, the address of the residence of such agent), email address, and telephone number of the designated service agent;

(vi) The submitter's name, email address, and telephone number; and

(vii) The corporation, partnership, or unincorporated association's service method election, as described in paragraph (e) of this section.

(2) *Certification.* To complete the designation, the person submitting the designation shall certify, under penalty of perjury, that the submitter is authorized by law to make the designation on behalf of the corporation, partnership, or unincorporated association, including any other affiliated entities for which the filing is made.

(e) *Service on designated agents.* A corporation, partnership, or unincorporated association that designates a service agent shall, as a condition of designating a service agent, consent to receive service upon the agent by means of certified or priority mail at the identified mailing address. It may also indicate in its designation that it consents to receive service by email at the identified email address.

(1) *Service by mail.* The corporation, partnership, or unincorporated association shall identify the service agent's place of business or, if there is no place of business, the address of the service agent's residence for purposes of service by mail. The service agent's place of business or address of the service agent's residence must be located within the United States.

(2) *Service by email.* (i) If a corporation, partnership, or unincorporated association indicates that it consents to receive service by email, the designated service agent's email address shall be displayed on the designated service agent directory.

(ii) In cases where the designation states that service may be made by email, the person submitting the designation shall affirm under penalty of perjury that the corporation, partnership, or unincorporated association for which the agent has been designated waives the right to personal service by means other than email and that the person making the designation has been authorized to waive that right on behalf of the corporation, partnership, or unincorporated association and any other affiliated entity for which the filing is made for Board proceedings.

(f) *Amendments.* A corporation, partnership, or unincorporated association shall have a duty to maintain current information in the directory. A corporation, partnership, or unincorporated association may amend a designation of a service agent by following directions on the Board's website. Such amendment shall be accompanied by the fee set forth in 37 CFR 201.3. The requirements found in paragraph (d) of this section shall apply to the service agent designation amendment. If current information is not timely maintained and, as a result, the identification or address of the service agent in the directory is no longer accurate, the Board may, in its discretion and subject to any reasonable conditions that the Board may decide to impose, determine whether service upon that agent or at that address was effective.

(g) *Public directory*—(1) *In general.* After a corporation, partnership, or unincorporated association submits a service agent designation, such designation shall be made available on the public designated service agent directory after payment has been remitted and the Board has reviewed the submission to determine whether the submission qualifies for the designated agent provision.

(2) *Removal from directory.* If the Board determines that a submitted service agent designation does not qualify under this section or if it has reason to believe that the submitter was not authorized by law to make the designation on behalf of the corporation, partnership, or unincorporated association, it shall notify the submitter that it intends not to add the record to the directory, or that it intends to remove the record from the directory, and shall provide the submitter 10 calendar days to respond. If the submitter fails to respond, or if, after reviewing the response, the Board determines that the submission does not qualify for the designated service agent directory, the entity shall not be added to, or shall be removed from, the directory.

(3) *Content of public listing.* The designation shall be indexed under the names of each corporation, partnership, or unincorporated association for which an agent has been designated and shall be made available on the Board's website. The email address and telephone number of the corporation, partnership, or unincorporated association provided under paragraph (d)(1)(i) of this section shall not be made publicly available on the designated service agent directory website, but such information shall be made available to Board staff.

(4) *Designation date.* A designation filed in accordance with this section before April 7, 2022 will become effective on that date.

Dated: February 28, 2022.

Shira Perlmutter,

Register of Copyrights and Director of the U.S. Copyright Office.

Approved by:

Carla D. Hayden,

Librarian of Congress.

[FR Doc. 2022–04745 Filed 3–7–22; 8:45 am]

BILLING CODE 1410–30–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2021–0296; FRL–9386–01–R9]

Air Plan Approval; California; Los Angeles—South Coast Air Basin

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve a revision to the South Coast Air Quality Management District (SCAQMD or ''District'') portion of the California State Implementation Plan (SIP). We are also determining that the submitted SIP revision fulfills the District's and the State's commitment to adopt and submit a specific enforceable contingency measure to address Clean Air Act (CAA or ''Act'') requirements for the 2006 24-hour and 2012 annual national ambient air quality standards (NAAQS) for fine particulate matter ($PM_{2.5}$) in the South Coast air basin.

DATES: This rule is effective on April 7, 2022.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R09–OAR–2021–0296. 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, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *https://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information. If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Ginger Vagenas, EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105. By phone at (415) 972–3964 or by email at *vagenas.ginger@epa.gov.*

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

Table of Contents

I. Proposed Action

On May 20, 2021, the EPA proposed to approve all but paragraphs (g) and (k) of the following rule into the California SIP.[1]

TABLE 1—RULE ADDRESSED BY EPA PROPOSAL

Local agency	Rule No.	Rule	Amended	Submitted
SCAQMD	445	Wood-Burning Devices (except paragraphs (g) and (k))	October 27, 2020 ...	October 29, 2020.

[1] 86 FR 27346.

We proposed to approve this rule, excluding paragraph (g) (Ozone Contingency Measures) and paragraph (k) (Penalties), based on a determination that it complies with CAA requirements for enforceability and SIP revisions in CAA sections 110(a)(2) and 110(l) and fulfills commitments that the State and District previously submitted to meet the requirements of CAA section 110(k)(4). Our proposed action contains more information on the rule and our evaluation.

II. Public Comments and EPA Responses

The EPA's proposed action provided a 30-day public comment period. During this period, we received one comment letter from the Center for Biological Diversity (CBD). We respond to CBD's comments below.

Comment 1: CBD stated that the EPA should consider the air pollution impacts of the alternative sources of heat people use when a curtailment is in effect. CBD claimed that ''it is arbitrary to assume that people will simply go without heat when'' a curtailment for wood burning devices is in effect and that ''[m]ost likely people will use very inefficient heat devices like electric or propane space heaters'' as a replacement source of heat. CBD contended that the EPA ''must consider the $PM_{2.5}$ emissions this substitute heating will cause when qualifying the $PM_{2.5}$ reductions from this contingency measure'' and must rely on the ''net savings'' (*i.e.,* the emissions reductions from wood stove curtailment minus the emissions increase from replacement heat) in calculating the emissions reductions from the contingency measure.

Response 1: These comments are outside the scope of this rule because they pertain to the quantification of $PM_{2.5}$ emissions reductions to be achieved by the submitted contingency measure.[2] We are not reevaluating in this action our bases for concluding that Rule 445, if revised consistent with the District's commitments, would satisfy the contingency measure requirements in CAA section 172(c)(9) and 40 CFR 51.1014 for the 2006 and 2012 $PM_{2.5}$ NAAQS, as described in our July 2, 2020 proposal on the 2016 $PM_{2.5}$ Plan. As we explained in our May 20, 2021 proposed rulemaking, our action is limited to approving Rule 445, as amended October 27, 2020, into the SIP based on our conclusion that the amended rule meets the requirements for enforceability and SIP revisions in CAA sections 110(a)(2) and 110(l) and fulfills the State and District commitments that provided the basis for our November 9, 2020 final rule conditionally approving the contingency measure element of the 2016 $PM_{2.5}$ Plan.[3] Comments pertaining to the quantification of emissions reductions to be achieved by Rule 445 for $PM_{2.5}$ contingency measure purposes are, therefore, outside the scope of this rule.

As we explained in our proposed rulemaking, we previously approved portions of California's SIP submission to address the CAA's ''Moderate'' area requirements for the 2012 $PM_{2.5}$ NAAQS in the South Coast nonattainment area (''2016 $PM_{2.5}$ Plan''). As part of that action, the EPA conditionally approved the contingency measure element of the 2016 $PM_{2.5}$ Plan as meeting the applicable requirements of CAA section 172(c)(9) and 40 CFR 51.1014 for the 2006 $PM_{2.5}$ NAAQS and the 2012 $PM_{2.5}$ NAAQS.[4] Our conditional approval of the contingency measure element of the 2016 $PM_{2.5}$ Plan for these NAAQS was based on specific commitments by the District and CARB to adopt and submit, within a specified timeframe, revisions to District Rule 445 (''Wood Burning Devices''), to lower the rule's mandatory curtailment threshold by specified amounts upon any of the four EPA determinations (*i.e.,* ''findings of failure'') listed in 40 CFR 51.1014(a).[5] Our proposed rulemaking to approve and conditionally approve the 2016 $PM_{2.5}$ Plan for purposes of these NAAQS, which published July 2, 2020, provided our evaluation of the District's quantification of the emissions reductions to be achieved by the specified revisions to Rule 445, and our rationale for concluding that the State's timely submission of revised Rule 445 would satisfy the contingency measure requirements in CAA section 172(c)(9) and 40 CFR 51.1014 for the 2006 and 2012 $PM_{2.5}$ NAAQS.[6] We received no public comments that were germane to our proposal, and on November 9, 2020, we finalized this proposal without change.[7]

The commenter's concern appears to rest on the assumption that significant numbers of residents using wood-burning devices as their sole source of residential heat[8] will be compelled by the rule to switch to more inefficient sources of residential heat. We have no information indicating that the SIP revisions that we are approving will result in such a large scale shift.[9] Rule 445 entirely exempts wood-burning devices used as the sole source of heat in a residential or commercial property and wood-burning devices used in low-income households from its curtailment provisions.[10] Additionally, according to the District, the additional number of No-Burn days resulting from the June 5, 2020 amendments is expected to be small (about 12 days) during the wood-burning season, and the cost impacts on the general public are also expected to be minimal as wood-burning devices in the South Coast air basin are primarily used ''for aesthetic purposes.'' [11]

Comment 2: CBD stated that the EPA must consider, in its Clean Air Act section 110(l) analysis, ''all of the air pollution from the replacement heating'' that people will use as a result of the wood-burning curtailment provisions in Rule 445. For example, the commenter stated, ''will the increased electric demand from electric replacement heat cause or contribute to additional NO_X NAAQS violations near the fossil fuel burning peaking plants meeting this increased demand.'' The commenter further asserted that ''[r]elying on monitoring data to say [there] is no NO_X problem would be arbitrary as the NO_X ambient monitoring network is woefully inadequate to determine if peaking fossil plants are causing NO_X [NAAQS] violations.''

Response 2: We disagree with the commenter's suggestion that, for

[2] We assume the commenter's statement that the EPA must consider the $PM_{2.5}$ emissions that substitute heating will cause ''when qualifying the $PM_{2.5}$ reductions from this contingency measure'' was intended to refer to the *quantification* of the emission reductions to be achieved by the measure.

[3] 86 FR 27346, 27348. We note that the Ninth Circuit Court of Appeals recently remanded an EPA rulemaking that relied on a rationale and interpretation of the contingency measure requirement in CAA section 172(c)(9) that the court found to be arbitrary and capricious. *Ass'n of Irritated Residents* v. *EPA,* 10 F.4th 937 (9th Cir. August 26, 2021). The EPA is currently reviewing this decision, evaluating our November 9, 2020 final action conditionally approving the contingency measure element of the 2016 $PM_{2.5}$ Plan, and considering what remedial steps are appropriate to comply with CAA requirements in light of the decision.

[4] 86 FR 27346, 27347 (citing prior final action on 2016 $PM_{2.5}$ Plan at 85 FR 71264 (November 9, 2020)).

[5] 86 FR 27346, 27348 (May 20, 2021).

[6] 85 FR 40026, 40049–40050 (July 2, 2020).

[7] 85 FR 71264, 71266 (November 9, 2020).

[8] ''Sole source of heat'' is defined in Rule 445 as the only permanent source of heat that is capable of meeting the space heating needs of a household.

[9] As a separate matter, we acknowledge and support California's policy shift toward the usage of higher efficiency and lower carbon technologies, such as heat pumps.

[10] Rule 445 (as amended October 27, 2020), subdivision (i) (exempting, inter alia, ''[r]esidential or commercial properties where a wood-burning device is the sole source of heat'' and any ''low income household'' from the mandatory curtailment provisions in subdivisions (e), (f), and (g)).

[11] SCAQMD, ''Final Staff Report, Proposed Amended Rule 445—Wood-Burning Devices,'' June 5, 2020, 19.

purposes of the limited revisions to Rule 445 at issue in this action, CAA section 110(l) requires the EPA to consider all of the air pollution that might result from use of replacement heating sources due to implementation of all of the curtailment provisions in Rule 445. Section 110(l) of the CAA prohibits the EPA from approving a SIP revision ''if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress'' or any other applicable requirement of the CAA. As we explained in our proposed rulemaking, the EPA approved an earlier version of Rule 445 into the SIP on September 26, 2013.[12] On June 5, 2020, the District amended Rule 445 to add lower mandatory wood-burning curtailment provisions in subdivision (f) to be implemented as $PM_{2.5}$ contingency measures upon a determination by the EPA that any of the four failures listed under 40 CFR 51.1014(a) has occurred.[13] The June 5, 2020 amendments to Rule 445 also extended the geographic scope of the mandatory wood-burning curtailment provisions to the entire South Coast air basin on any day for which the $PM_{2.5}$ forecast at a ''source receptor area'' (SRA) in the air basin exceeds the forecast threshold.[14] The District adopted further amendments pertaining to ozone contingency measures on October 27, 2020, which the EPA is not acting on at this time, but retained the Rule 445 amendments adopted June 5, 2020, unchanged.[15] Thus, the only SIP revisions that we are approving are those amended provisions of Rule 445 initially adopted on June 5, 2020, and retained in the October 27, 2020 amended rule—*i.e.,* the new $PM_{2.5}$ contingency measure provisions in subdivision (f) and the extension of the wood-burning curtailment provisions to apply basin-wide. Section 110(l) of the CAA requires the EPA to consider whether these particular SIP revisions would interfere with any applicable requirement concerning attainment and reasonable further progress or any other applicable requirement of the CAA; it does not require the EPA to consider all of the air pollution that may result from changes in behavior that may or may not be caused by the District's implementation of the rule as a whole.[16]

The June 5, 2020 amendments to Rule 445 strengthen the SIP by lowering the forecast threshold by 1 microgram per meter cubed each time the $PM_{2.5}$ contingency measure provisions in subdivision (f) are triggered and by prohibiting the use of wood-burning devices basin-wide, rather than only in specific SRAs, whenever the $PM_{2.5}$ forecast at any SRA in the air basin exceeds the forecast threshold. The commenter provides no specific support for the claim that these strengthened aspects of Rule 445 will ''interfere with any applicable requirement concerning attainment and reasonable further progress'' or any other applicable requirement of the CAA. Given the incremental $PM_{2.5}$ emissions reductions expected to result from the District's revisions to Rule 445, and the absence of any information in the record indicating that implementation of the revised rule will adversely affect air quality or otherwise interfere with CAA requirements with respect to the $PM_{2.5}$ NAAQS, we find this SIP revision an improvement to the SIP for this area.

The commenter's concern appears to relate not to the $PM_{2.5}$ NAAQS, but rather to the NO_2 NAAQS, and potential adverse consequences in the vicinity of electric generating units that could result from increased electricity generation due to these revisions to Rule 445. The commenter did not provide any support for the premise that these specific revisions to Rule 445 would materially elevate NO_X emissions in the South Coast air basin or elsewhere, and the EPA does not anticipate that this would occur as a result of the additional wood-burning curtailment that may be required if the contingency measure provisions in Rule 445 are triggered in the future, given the exemptions in Rule 445. See Response 1.

Finally, comments about the adequacy of the NO_2 ambient monitoring network in the South Coast air basin are also outside the scope of this action. As we explained in the proposed rulemaking, we evaluated Rule 445, as amended October 27, 2020, solely for purposes of determining whether it meets the requirements for enforceability and SIP revisions in CAA sections 110(a)(2) and 110(l) and determining whether the State and District fulfilled the commitments that provided the basis for our conditional approval of the contingency measure element of the 2016 $PM_{2.5}$ Plan for purposes of the $PM_{2.5}$ NAAQS.[17] Comments about the NO_X ambient monitoring network and potential violations of the NO_2 NAAQS, therefore, are not germane to this rule.

The EPA notes, however, that it has separately approved the District's 2020 annual network plan submitted to satisfy the requirements in 40 CFR part 58 pertaining to NO_2 air quality monitors.[18] Additionally, the EPA recently conducted a technical systems audit of the SCAQMD's ambient air quality monitoring program, including network management, field operations, quality assurance, and data management procedures, and found no deficiencies in the NO_2 monitoring network.[19]

III. Final Action

No comments were submitted that change our assessment of the rule as described in our proposed action. Therefore, as authorized in section 110(k)(3) of the Act, the EPA is fully approving this rule, except paragraph (g) (Ozone Contingency Measures) and paragraph (k) (Penalties), into the California SIP. The October 27, 2020 version of Rule 445 will replace the previously approved version of this rule in the SIP. We have determined that the submitted SIP revision fulfills the District's and the State's commitment to adopt and submit a specific enforceable contingency measure to address CAA requirements for the 2006 24-hour fine $PM_{2.5}$ NAAQS and the 2012 annual $PM_{2.5}$ NAAQS in the South Coast air basin and, on that basis, we are converting our November 9, 2020 conditional approval to a full approval.

IV. Incorporation by Reference

In this rule, 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 South Coast Air Quality Management District rule described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make,

[12] 78 FR 59249 (final rule approving Rule 445, as amended May 3, 2013, into California SIP).

[13] 86 FR 27346, 27347–27348 (May 20, 2021).

[14] The SIP-approved version of Rule 445 (as amended May 3, 2013) applied the wood-burning curtailment basin-wide only when the ''source receptor area'' (SRA) where the $PM_{2.5}$ forecast exceeded the forecast threshold also contained ''a monitoring station that has recorded a violation of the 2006 24-hour $PM_{2.5}$ NAAQS for either of the two previous three-year design value periods.'' Rule 445 (as amended May 3, 2013), subdivision (6)(B). In all other situations, the wood-burning curtailment applied only in specific SRAs. Id.

[15] The EPA is not acting at this time on the new provisions addressing ozone contingency measures in subdivision (g) of Rule 445 that the District adopted on October 27, 2020. 86 FR 27346, 27347.

[16] We note also that implementation of revised Rule 445 is not likely to cause a largescale shift to inefficient heating devices given the exemptions in Rule 445. See Response 1.

[17] 86 FR 27346, 27348.

[18] Letter dated October 28, 2020, from Gwen Yoshimura, EPA Region IX, to Dr. Matt Miyasato, SCAQMD.

[19] Letter dated March 17, 2021, from Elizabeth Adams, EPA, Region IX, to Dr. Matt Miyasato, SCAQMD, and EPA Region IX, ''Technical Systems Audit of the Ambient Air Monitoring Program: South Coast Air Quality Management District June 1–5, 2020,'' March 2021.

these documents available through *www.regulations.gov* and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

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

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

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).

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 9, 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, Particulate matter, Reporting and recordkeeping requirements.

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

Dated: March 2, 2022.

Martha Guzman Aceves,

Regional Administrator, Region IX.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart F—California

■ 2. Section 52.220 is amended by adding paragraphs (c)(430)(i)(A)(*3*) and (c)(570), to read as follows:

§ 52.220 Identification of plan-in part.

* * * * *

(c) * * *

(430) * * *

(i) * * *

(A) * * *

(*3*) Previously approved on September 26, 2013 in paragraph (c)(430)(i)(A)(*2*) of this section and now deleted with replacement in (c)(570)(i)(A)(*1*), Rule 445, ''Wood Burning Devices,'' adopted on May 3, 2013.

* * * * *

(570) An amended regulation for the following APCD was submitted on October 29, 2020 by the Governor's designee as an attachment to a letter dated October 29, 2020.

(i) *Incorporation by reference.* (A) South Coast Air Quality Management District.

(*1*) Rule 445, ''Wood-Burning Devices,'' amended on October 27, 2020, except paragraph (g), ''Ozone Contingency Measures,'' and paragraph (k), ''Penalties.''

(*2*) [Reserved]

(B) [Reserved]

(ii) [Reserved]

§ 52.248 [Amended]

■ 3. Section 52.248 is amended by removing and reserving paragraph (k).

[FR Doc. 2022–04761 Filed 3–7–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2020–0452; FRL–9175–02–R4]

Air Plan Approval; NC; Removal of Transportation Facilities Rules for Mecklenburg County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is finalizing a State Implementation Plan (SIP) revision to

the Mecklenburg County portion of the North Carolina SIP, hereinafter referred to as the Mecklenburg Local Implementation Plan (LIP). The revision was submitted by the State of North Carolina, through the North Carolina Division of Air Quality (NCDAQ), on behalf of Mecklenburg County Air Quality via a letter dated April 24, 2020. The revision seeks to remove transportation facilities rules from the Mecklenburg County Air Pollution Control Ordinance (MCAPCO) rules incorporated into the LIP. EPA is approving these changes pursuant to the Clean Air Act (CAA or Act).

DATES: This rule is effective April 7, 2022.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2020–0452. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information may not be publicly available, *i.e.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. EPA requests that, if possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Kelly Sheckler, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9992. Mrs. Sheckler can also be reached via electronic mail at *sheckler.kelly@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The April 24, 2020, SIP revision sought to remove Mecklenburg's transportation facilities rules from the Mecklenburg LIP. Specifically, this revision requested that EPA remove the MCAPCO rules in Article 2.0000—*Air Pollution Control Regulations and Procedures,* Section 2.0800—*Transportation Facilities,* comprised of Rules 2.0801—*Purpose and Scope;* 2.0802—*Definitions;* 2.0803—*Highway Projects;* and 2.0804—*Airport Facilities.*[1] EPA previously removed the State's transportation facilities rules from the North Carolina regulatory portion of the SIP on May 12, 2017. As a part of that action, EPA approved NCDAQ's September 16, 2016, SIP revision containing a demonstration showing that the repeal of the State's transportation facilities rules satisfied CAA section 110(l). Section 110(l) prohibits EPA from approving a SIP revision that would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of the Act. North Carolina's section 110(l) demonstration was a statewide analysis that included Mecklenburg County. The section 110(l) analysis associated with the removal of the State's rules from the SIP is therefore relevant to the proposed removal of Mecklenburg's rules from the LIP.

On October 28, 2021, EPA published a Notice of Proposed Rulemaking (NPRM) proposing to approve the April 24, 2020, SIP revision requesting removal of the transportation facilities rules from the MCAPCO rules incorporated into the LIP. *See* 86 FR 59678. The NPRM includes an updated 110(l) analysis and provides additional detail regarding the background and rationale for this final EPA action. Comments on the October 28, 2021, NPRM were due on or before November 29, 2021. EPA received one adverse comment on the October 28, 2021, NPRM.[2] This comment is available in the docket for this action. See the Response to Comment section of this final action for EPA's response.

II. Response to Comment

As mentioned above, EPA received one adverse comment on the proposed action. EPA's comment summary and response are provided below.

Comment: The Commenter expresses concern about the protectiveness of the six criteria pollutants, also known as the national ambient air quality standards (NAAQS or standards). In particular, the Commenter takes issue with how the NAAQS are measured and contends that they should be revised to include more pollutants. The Commenter further adds that air quality standards should not be relaxed in metro areas and indicates that this removal would constitute a relaxation. Additionally, the Commenter notes that metro areas with documented nonattainment should not be permitted to relax previously legislated air quality control measures. Rather, the Commenter suggests that these metro areas should be subject to additional scrutiny and surveillance. Finally, the Commenter expresses a general concern about the relationship between the six criteria pollutants and indoor air pollution.

Response: To the extent that the comment refers to the protectiveness and measurement of the NAAQS, EPA notes that a review of the NAAQS is outside of the scope of this rulemaking. This rulemaking did not relate to any review or change of the NAAQS in Mecklenburg County or any other area in the nation. In this rulemaking, EPA is acting solely to remove the MCAPCO rules identified in the previous section and the October 28, 2021, NPRM.

EPA notes that the Agency has a formal process for regular review of the six criteria pollutants to determine whether the standards set for each are still protective of human health and the environment. Pursuant to CAA sections 108 and 109, EPA must thoroughly review each NAAQS every five years to account for the latest scientific knowledge regarding the effects of the air pollutant on public health and welfare.[3] EPA solicits public comment as part of each five-year review and invites the Commenter to share recent scientific discoveries and concerns regarding air pollution during those comment periods. Further, EPA refers the Commenter to EPA's website at *https://www.epa.gov/criteria-air-pollutants/process-reviewing-national-ambient-air-quality-standards* to learn more about EPA's process for reviewing the NAAQS.

[1] NCDAQ also asked EPA to remove Rules 2.0805—*Parking Facilities* and 2.0806—*Ambient Air Monitoring and Analysis.* EPA is not taking action to remove these two rules because they are not in the LIP.

[2] EPA received two adverse comments in the docket for this rulemaking; however, one of the adverse comments was intended for a separate rulemaking related to the Mecklenburg LIP. That rulemaking is associated with Docket ID No. EPA–R04–OAR–2021–0055. EPA is addressing that comment through that separate rulemaking.

[3] *See https://www.epa.gov/criteria-air-pollutants/process-reviewing-national-ambient-air-quality-standards* for information regarding EPA's five-year NAAQS review process.

In 2021, the EPA Administrator announced the Agency's intention to review the standards for ozone and particulate matter on a schedule more expeditiously than required by the CAA.[4] [5] EPA notes that the air quality standards are not legislated but are established through a notice and rulemaking making process that allows for anyone to submit a comment on proposed rules. The Commenter should use the public comment periods associated with those reviews to express concerns about the protectiveness of the standards. Additionally, EPA notes that standards for the criteria pollutants are established to apply nationwide and are not ''relaxed'' in individual areas.

While EPA sets the NAAQS, states play a primary role in implementation. The CAA establishes a system of cooperative federalism that sets specific roles for EPA and the states. In this system, EPA provides national leadership and sets national standards for environmental protection, such as the NAAQS.[6] Under CAA section 110, states have broad discretion to choose the mix of emission limitations and other control measures, means, or techniques that they will implement (or update) through a SIP to provide for attainment and maintenance of the NAAQS. EPA's role, with respect to a SIP revision, is focused on reviewing the submission to determine whether it meets the minimum criteria of the CAA. Where it does, EPA must approve the submission. When approving a SIP revision, the Agency is not establishing its own requirements for the state to implement. If, at any time, EPA finds that a SIP is inadequate to attain or maintain the relevant NAAQS or otherwise does not comply with the CAA, EPA has the authority under CAA section 110(k)(5) to require the state to revise its SIP to correct such inadequacies.

For this rulemaking, EPA has concluded based on the 110(l) analysis, that the removal of the transportation facilities rules from the Mecklenburg LIP would not weaken or remove any pollution controls or interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the Act. As discussed in the October 28, 2021, NPRM, there are no nonattainment areas in Mecklenburg County, the transportation facilities rules are no longer federally required, Mecklenburg County issues few transportation facility permits, the issued permits do not require emissions controls, and the relevant NAAQS are not threatened.

With respect to the Commenter's concern about the relationship between the NAAQS and indoor air pollution, the CAA does not require states to control indoor air pollution. Congress did not design the CAA (including the SIP process, NAAQS pollutants, or area nonattainment delegations) to have any effect on indoor air pollution.

III. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. EPA is finalizing the removal of MCAPCO Section 2.0800—*Transportation Facilities,* including Rules 2.0801—*Purpose and Scope;* 2.0802—*Definitions;* 2.0803—*Highway Projects;* and 2.0804—*Airport Facilities,* which are incorporated by reference in accordance with the requirements of 1 CFR part 51. EPA has made, and will continue to make, the SIP generally available at the EPA Region 4 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

IV. Final Action

EPA is removing the MCAPCO rules under Article 2.0000—*Air Pollution Control Regulations and Procedures,* Section 2.0800—*Transportation Facilities.* Specifically, EPA is removing Rules 2.0801—*Purpose and Scope;* 2.0802—*Definitions;* 2.0803—*Highway Projects;* and 2.0804—*Airport Facilities,* in their entirety, from the LIP. As a result of this removal, no Section 2.0800 rules will be in the LIP, so EPA is removing Section 2.0800—*Transportation Facilities* in its entirety. EPA is taking final action to approve these changes to the LIP because they are consistent with the CAA.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 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 they meet the criteria of the CAA. This action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

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

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must

[4] *See https://www.epa.gov/ground-level-ozone-pollution/epa-reconsider-previous-administrations-decision-retain-2015-ozone#:~:text=EPA%20will%20ensure%20the%20Clean,2023%20to%20complete%20this%20reconsideration* for information regarding EPA's announcement to reexamine the 2020 decision to retain the 2015 ozone NAAQS.

[5] *See https://www.epa.gov/newsreleases/epa-reexamine-health-standards-harmful-soot-previous-administration-left-unchanged* for information regarding EPA's announcement to reexamine the December 2020 decision to retain the 2015 particulate matter NAAQS.

[6] *See https://www.epa.gov/criteria-air-pollutants/naaqs-table* for information regarding the current NAAQS.

submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 9, 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: February 28, 2022.

Daniel Blackman,

Regional Administrator, Region 4.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart II—North Carolina

§ 52.1770 [Amended]

■ 2. In § 52.1770(c)(3), the table is amended by removing the heading for ''Section 2.0800 Transportation Facilities,'' and the entries for ''Section 2.0801,'' ''Section 2.0802,'' ''Section 2.0803,'' and ''Section 2.0804.''

[FR Doc. 2022–04833 Filed 3–7–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2020–0214; FRL–9380–01–OCSPP]

Phosphoric Acid; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of phosphoric acid (CAS Reg. No. 7664–38–2) when used as an inert ingredient (pH adjuster) in antimicrobial formulations applied to food-contact surfaces in public eating places, dairy-processing equipment, food-processing equipment and utensils. Technology Sciences Group Inc., on behalf of the Clorox Services Company (Representing Clorox Professional Products Company), submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting the establishment of an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of phosphoric acid when used in accordance with this exemption.

DATES: This regulation is effective March 8, 2022. Objections and requests for hearings must be received on or before May 9, 2022, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2020–0214, is available at *https://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805.

Due to the public health concerns related to COVID–19, the EPA Docket Center (EPA/DC) and Reading Room is closed to visitors with limited exceptions. The staff continues to provide remote customer service via email, phone, and webform. For the latest status information on EPA/DC services and docket access, visit *https://www.epa.gov/dockets.*

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

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

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

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

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

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

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2020–0214 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before May 9, 2022. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information

(CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2020–0214, by one of the following methods:

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

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

II. Petition for Exemption

In the **Federal Register** of May 29, 2020 (85 FR 32338) (FRL–10009–84), EPA issued a document pursuant to FFDCA section 408, 21 U.S.C. 346a, announcing the filing of a pesticide petition (IN–11392) by Technology Sciences Group Inc., (1150 18th Street NW, Suite 1000, Washington, DC 20036), on behalf of the Clorox Services Company (Representing Clorox Professional Products Company) (P.O. Box 493, Pleasanton, CA 94566–0803). The petition requested that 40 CFR 180.940(a) be amended by establishing an exemption from the requirement of a tolerance for residues of phosphoric acid when used as an inert ingredient (pH adjuster) in antimicrobial formulations applied to food-contact surfaces in public eating places, dairy-processing equipment, food-processing equipment and utensils. That document referenced a summary of the petition prepared by Technology Sciences Group Inc., on behalf of on behalf of the Clorox Services Company (Representing Clorox Professional Products Company), the petitioner, which is available in the docket, *https://www.regulations.gov.* There were no relevant comments received in response to the notice of filing.

III. Inert Ingredient Definition

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

IV. Aggregate Risk Assessment and Determination of Safety

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

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

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

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered their validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. Specific information on the studies received and the nature of the adverse effects caused by the relevant phosphoric acid as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *https://www.regulations.gov* in the document ''Phosphoric Acid; Human Health Risk Assessment and Ecological Effects Assessment to Support Proposed Amendment to the Tolerance Exemption When Used as an Inert Ingredient in Pesticide Formulations'' in docket ID number EPA–HQ–OPP–2020–0214.

The acute oral and dermal toxicities are low in rats and rabbits treated with phosphoric acid. Phosphoric acid solutions of pH <2.5 are corrosive. It is not a skin sensitizer.

Repeated dose studies show that phosphoric acid is not toxic at doses up to 500 mg/kg/day in rats. No parental, developmental, offspring, or reproduction toxicity is seen up to 500 mg/kg/day. No fetal susceptibility is observed.

There is no evidence of immunotoxicity or neurotoxicity in the available studies. Phosphoric acid is negative for mutagenicity and chromosome aberrations. No tumors or cancer are observed in studies with rats.

Phosphoric acid is absorbed by ingestion, inhalation, and dermal contact and is distributed in the body as phosphate. Absorbed phosphate is filtered in the kidneys and partially reabsorbed. It is excreted mainly in the feces as calcium phosphate.

B. Toxicological Points of Departure/ Levels of Concern

Phosphoric acid is an essential constituent of humans in the bones, teeth, and in many enzyme systems. Free phosphate ion (PO_4^{3-}) is the major form in which phosphorus is absorbed from the diet. The Institute of Medicine (US) Standing Committee on the Scientific Evaluation of Dietary Reference Intakes for Calcium, Phosphorus, Magnesium, Vitamin D, and Fluoride evaluated phosphorus and established tolerable upper intake levels (ULs), 4,000 mg/day (approximately 57 mg/kg/day) for adults and 3,000 mg/day (approximately 200 mg/kg/day) for children 1 to 8 years of age. Furthermore, EFSA has established an acceptable daily intake (ADI) for phosphates, expressed as phosphorus, of 40 mg/kg body weight per day. Because a calculated cRfD from animal studies would result in values that are at least 8 times lower than the estimated acceptable consumption for humans (40–57 mg/kg/day), use of animal data is considered exceedingly conservative. Additionally, the adverse effects observed in animals occurred at doses well above the limit dose. Therefore, toxicity endpoints were not selected, and a qualitative risk assessment was performed for phosphoric acid.

C. Exposure Assessment

1. *Dietary exposure from drinking water, food and feed uses.* In evaluating dietary exposure to phosphoric acid, EPA considered exposure under the proposed exemption from the requirement of a tolerance. EPA assessed dietary exposures from phosphoric acid in food as follows:

Dietary exposure (food and drinking water) to phosphoric acid may occur following ingestion of foods with residues from their use in accordance with this exemption and its use as a food additive. However, a quantitative dietary exposure assessment was not conducted and is not necessary since a toxicological endpoint for risk assessment was not identified.

2. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (*e.g.,* textiles (clothing and diapers), carpets, swimming pools, and hard surface disinfection on walls, floors, tables). Phosphoric acid may be used in pesticide products and non-pesticide products that may be used in and around the home. Based on the discussion above regarding the lack of a toxicological endpoint for phosphoric acid, a qualitative residential exposure assessment was conducted.

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

Based on the lack of a toxicological endpoint, phosphoric acid and its metabolites are not expected to share a common mechanism of toxicity with other chemicals. For the purposes of this action, therefore, EPA has assumed that phosphoric acid does not have a common mechanism of toxicity with other substances.

D. Safety Factor for Infants and Children

Section 408(b)(2)(C) of the FFDCA requires EPA to retain an additional tenfold margin of safety in the case of threshold effects to ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. EPA has not identified any toxicological endpoints of concern and is conducting a qualitative assessment of phosphoric acid. The qualitative assessment does not use safety factors for assessing risk, and no additional safety factor is needed for assessing risk to infants and children.

E. Aggregate Risks and Determination of Safety

Taking into consideration all available information on phosphoric acid, EPA has determined that there is a reasonable certainty that no harm to the general population or any population subgroup, including infants and children, will result from aggregate exposure to phosphoric acid residues. Therefore, the establishment of exemptions from the requirement of a tolerance under 40 CFR 180.940(a) for residues of phosphoric acid when used as an inert ingredient in antimicrobial pesticide formulations applied to food-contact surfaces in public eating places, dairy-processing equipment, and food-processing equipment and utensils is safe under FFDCA section 408.

V. Other Considerations

Analytical Enforcement Methodology

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

VI. Conclusions

Based on the information reviewed by EPA and described above, an exemption from the requirement of a tolerance is established in 40 CFR 180.940(a) for residues of phosphoric acid (CAS Reg. No. 7664–38–2) when used as an inert ingredient (pH adjuster) in antimicrobial formulations applied to food-contact surfaces in public eating places, dairy-processing equipment, food-processing equipment and utensils.

VII. Statutory and Executive Order Reviews

This action establishes a tolerance exemption under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), nor is it considered a regulatory action under Executive Order 13771, entitled ''Reducing Regulations and Controlling Regulatory Costs'' (82 FR 9339, February 3, 2017). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994). Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance exemption in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or Tribes, nor does

this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or Tribal Governments, on the relationship between the National Government and the States or Tribal Governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian Tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

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

VIII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: February 17, 2022.

Marietta Echeverria,

Acting Director, Registration Division, Office of Pesticide Programs.

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

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

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

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

■ 2. In § 180.940, amend Table 1 to paragraph (a) by adding in alphabetical order an entry for ''Phosphoric Acid'' to read as follows:

§ 180.940 Tolerance exemptions for active and inert ingredients for use in antimicrobial formulations (Food-contact surface sanitizing solutions)

* * * * *

(a) * * *

TABLE 1 TO PARAGRAPH (a)

Inert ingredients	CAS Reg. No.	Limits
* * * * *	*	*
Phosphoric Acid	7664–38–2	
* * * * *	*	*

* * * * *

[FR Doc. 2022–04852 Filed 3–7–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 751

[EPA–HQ–OPPT–2021–0598; FRL–6015.6–02–OCSPP]

RIN 2070–AK95

Regulation of Persistent, Bioaccumulative, and Toxic Chemicals Under TSCA Section 6(h); Phenol, Isopropylated Phosphate (3:1); Further Compliance Date Extension

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is amending the regulations applicable to phenol, isopropylated phosphate (3:1) (PIP (3:1)) promulgated under the Toxic Substances Control Act (TSCA). Specifically, EPA is extending the compliance date applicable to the prohibition on processing and distribution in commerce of certain PIP (3:1)-containing articles, and the PIP (3:1) used to make those articles, until October 31, 2024, along with the compliance date for the associated recordkeeping requirements for manufacturers, processors, and distributors of PIP (3:1)-containing articles. This final rule follows issuance of a proposed rule for public comment on October 28, 2021; comments on the proposed rule are responded to in this action.

DATES: This final rule is effective on March 8, 2022. For purposes of judicial review and 40 CFR 23.5, this rule shall be promulgated at 1 p.m. eastern standard time on March 22, 2022.

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPPT–2021–0598, is available at *https://www.regulations.gov.* Due to the public health concerns related to COVID–19, the EPA Docket Center (EPA/DC) and Reading Room are opened to visitors by appointment only. For the latest status information on EPA/DC services and docket access, visit *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Cindy Wheeler, Existing Chemicals Risk Management Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 566–0484; email address: *TSCA-PBT-rules@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. Does this action apply to me?

You may be potentially affected by this action if you manufacture (including import), process, distribute in commerce, or use phenol, isopropylated phosphate (3:1) (PIP (3:1)), or PIP (3:1)-containing articles,

especially plastic articles that are components of electronics or electrical articles. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this action applies to them. Potentially affected entities may include:

- Petroleum Refineries (NAICS Code 324110);
- All Other Basic Organic Chemical Manufacturing (NAICS Code 325199);
- Plastics Material and Resin Manufacturing (NAICS Code 325211);
- All Other Miscellaneous Chemical Product and Preparation Manufacturing (NAICS Code 325998);
- Machinery Manufacturing (NAICS Code 333);
- Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing (NAICS Code 333415);
- Other Communications Equipment Manufacturing (NAICS Code 334290);
- Computer and Electronic Product Manufacturing (NAICS Code 334);
- Small Electrical Appliance Manufacturing (NAICS Code 335210);
- Major Household Appliance Manufacturing (NAICS Code 335220);
- Motor and Generator Manufacturing (NAICS Code 335312);
- Switchgear and Switchboard Apparatus Manufacturing (NAICS Code 335313);
- Relay and Industrial Control Manufacturing (NAICS Code 335314);
- Other Communication and Energy Wire Manufacturing (NAICS Code 335929);
- Current-carrying Wiring Device Manufacturing (NAICS Code 335931);
- Transportation Equipment Manufacturing (NAICS Code 336);
- Musical Instrument Manufacturing (NAICS Code 339992);
- All Other Miscellaneous Manufacturing (NAICS Code 339999);
- Other Chemical and Allied Products Merchant Wholesalers (NAICS Code 424690);
- Motor Vehicle and Parts Dealers (NAICS Code 441);
- All Other Home Furnishings Stores (NAICS Code 442299);
- Electronics and Appliance Stores (NAICS Code 443);
- Building Material and Garden Equipment and Supplies Dealers (NAICS Code 444);
- Research and Development in the Physical, Engineering, and Life Sciences (NAICS Code 541710).

B. What is the Agency's authority for taking this action?

1. Toxic Substances Control Act (TSCA)

TSCA section 6(h), 15 U.S.C. 2605(h), directs EPA to take expedited action on certain persistent, bioaccumulative, and toxic (PBT) chemical substances. For chemical substances that meet the statutory criteria, EPA is directed to issue final rules that address the risks of injury to health or the environment that the Administrator determines are presented and that reduce exposure to the substance(s) to the extent practicable. In response to this directive, EPA identified PIP (3:1) as meeting the TSCA section 6(h) criteria and issued a final rule for PIP (3:1) on January 6, 2021 (Ref. 1).

With the obligation to promulgate these rules, the Agency also has the authority to amend them if circumstances change, including in relation to the receipt of new information. It is well settled that EPA has inherent authority to reconsider, revise, or repeal past decisions to the extent permitted by law so long as the Agency provides a reasoned explanation. See *F.C.C.* v. *Fox Television Stations, Inc.,* 556 U.S. 502, 515 (2009). Here, as explained further in Unit I.D. and Unit IV.A, based on information submitted by regulated entities, the Agency has determined that revised compliance dates are necessary to address detailed information submitted in comments demonstrating that the original compliance dates were not practicable and did not provide adequate transition time consistent with TSCA section 6(d)(1) because compliance with the original compliance date and initially extended compliance date would have caused extensive harm to the economy and public due to unavailability of critical goods and equipment.

2. Administrative Procedure Act (APA).

APA section 553(d), 5 U.S.C. 553(d), provides that the publication of a substantive rule must occur no later than 30 days before its effective date, with certain exceptions. The purpose of this provision is to ''give affected parties a reasonable time to adjust their behavior before the final rule takes effect.'' See *Omnipoint Corp.* v. *F.C.C.,* 78 F.3d 620, 630 (D.C. Cir. 1996); see also *United States* v. *Gavrilovic,* 551 F.2d 1099, 1104 (8th Cir. 1977) (quoting legislative history). Of relevance here, APA section 553(d)(1), 5 U.S.C. 553(d)(1), provides that final rules shall not become effective until 30 days after publication in the **Federal Register** ''except . . . a substantive rule which grants or recognizes an exemption or relieves a restriction.'' When the agency grants or recognizes an exemption or relieves a restriction, affected parties do not need a reasonable time to adjust because the effect is not adverse. See *Indep. U.S. Tanker Owners Comm.* v. *Skinner,* 884 F.2d 587 (D.C. Cir. 1989) (upholding immediate effective date for a final rule intended to avoid disruption in domestic trade by lifting a ban on vessels participating in domestic shipping), *mandate modified on other grounds,* 901 F.2d 1116 (D.C. Cir. 1990). EPA has determined that this rule relieves a restriction by providing additional time for regulated entities to comply with the applicable requirements. Accordingly, EPA is making this rule effective immediately upon publication.

C. What action is the Agency taking?

The January 2021 final rule for PIP (3:1) prohibits the processing and distribution in commerce of PIP (3:1), PIP (3:1)-containing products, and PIP (3:1)-containing articles, with specified exclusions; prohibits or restricts the release of PIP (3:1) to water during manufacturing, processing, distribution in commerce, and commercial use; and requires persons manufacturing, processing, and distributing in commerce PIP (3:1) and products containing PIP (3:1) to notify their customers of these prohibitions and restrictions and to keep records. Several different compliance dates were established, the first of which was 60 days after publication, or March 8, 2021, after which processing and distribution in commerce of PIP (3:1), PIP (3:1)-containing products, and PIP (3:1)-containing articles were prohibited unless an alternative compliance date or exclusion was otherwise provided. A final rule issued in September 2021 extended the compliance date applicable to the prohibition on processing and distribution in commerce of certain PIP (3:1)-containing articles, and the PIP (3:1) used to make those articles, from March 8, 2021, to March 8, 2022, along with the compliance date for the associated recordkeeping requirements for PIP (3:1)-containing articles (Ref. 2).

This final rule amends the regulations at 40 CFR 751.407(a)(2)(iii) and (d)(4) to further extend the phased-in prohibition, established in the September 2021 final rule, for the processing and distribution in commerce of PIP (3:1) for use in certain articles, and for the processing and distribution in commerce of certain PIP (3:1)-containing articles, from March 8, 2022, to October 31, 2024. The

compliance date for the recordkeeping requirements for manufacturers, processors, and distributors of PIP (3:1)-containing articles is also extended from March 8, 2022, to October 31, 2024. Articles covered by the phased-in prohibition include any article not otherwise covered by an alternative compliance deadline or exclusion described in 40 CFR 751.407(a)(2)(ii) or (b).

D. Why is the Agency taking this action?

EPA is further extending the compliance dates applicable to the prohibition on processing and distribution in commerce of PIP (3:1) for use in certain articles, and the processing and distribution in commerce of certain PIP (3:1)-containing articles, to further address the hardships inadvertently created by the January 2021 final rule on PIP (3:1) (Ref. 1) due to impacted uses and supply chain challenges that were not communicated to EPA until after the rule was published. Shortly after the final rule was published in January 2021, many stakeholders, including, for example, the electronics and electrical manufacturing sector and their customers, raised significant concerns about their ability to meet the March 8, 2021, compliance date for PIP (3:1)-containing articles (Ref. 3). In the **Federal Register** of March 16, 2021 (Ref. 4), EPA requested additional comment on this specific issue, as well as on other aspects of all the TSCA section 6(h) final rules (Refs. 1, 5, 6, 7, and 8). According to the comments received in response to the March 2021 notification and request for comments, a wide range of key consumer and commercial goods were affected by the prohibitions in the PIP (3:1) final rule such as cellular telephones, laptop computers, and other electronic devices and industrial and commercial equipment used in various sectors including transportation, life sciences, and semiconductor production (Ref. 9). In September 2021, EPA issued a final rule that extended the compliance date applicable to the prohibition on processing and distribution in commerce of certain PIP (3:1)-containing articles, and the PIP (3:1) used to make those articles, until March 8, 2022, along with the compliance date for the associated recordkeeping requirements for manufacturers, processors, and distributors of PIP (3:1)-containing articles (Ref. 2). The September 2021 final rule provided a necessary short-term extension to avoid immediate and significant disruption in the supply chains for certain articles, to provide the public with regulatory certainty in the near term, and to allow EPA additional time to further evaluate the need to again extend the compliance deadlines for PIP (3:1). Shortly thereafter, EPA issued a proposal to further extend the compliance dates to October 31, 2024 (Ref. 10). This final rule extending the compliance dates from March 8, 2022, until October 31, 2024, is based on the detailed information provided by several industry commenters in response to the proposal.

E. What are the incremental economic impacts?

Pursuant to TSCA section 6(c)(2), EPA evaluated the potential incremental economic impacts of further extending the compliance deadline and determined that the changes being finalized in this action would reduce the existing burden of the March 8, 2022, compliance date. The quantified effect of this compliance date extension (from March 8, 2022, to October 31, 2024) reflects the difference between the incremental cost and benefits of the January 2021 final rule as it was originally promulgated and the incremental cost and benefits of this final rule with the new compliance date in place. This was estimated as the difference between the cost and benefits of the final rule after the compliance extension to March 8, 2022, and the cost and benefits of this final rule with an October 31, 2024, compliance date. Quantified costs for substitution and recordkeeping were estimated to be incurred later than they would have been under the January 2021 rule, assuming they will be incurred when the compliance date extension expires. In summary, extending the compliance date from March 8, 2022, to October 31, 2024, for PIP (3:1)-containing articles results in an estimated annualized cost savings of $1.8 million (from $24.1 to $22.3 million) at a 3 percent discount rate or $2.4 million (from $23.4 to $21.0 million) at a 7 percent discount rate over a 25-year time horizon. While the Agency has no data to quantify this, qualitative costs savings may include savings stemming from the additional time for manufacturers and retailers to sell articles prior to the prohibition deadline rather than being forced to dispose of them, thereby avoiding loss of revenue from those products. In addition to these cost savings, reformulation (which can include research and development, laboratory testing, and re-labeling) will be facilitated once an acceptable substitute is identified given that companies will have more time to gather information regarding the steps involved in the reformulation process. Cost reductions for reformulation are not certain, however, since the time required for the regulated community to identify viable substitutes can be complex and unpredictable. The level of these cost savings is dependent on complexity of achieving needed efficacy, length of time needed for testing and quality control, and the current status of development of alternatives, which may vary greatly by sector and end use product.

Lastly, the compliance date extension may provide additional time for information gathering about supply chain impacts that could alleviate the necessity for chemical testing of certain articles to identify whether and where PIP (3:1) might be present in their supply chains.

With respect to benefits, pursuant to TSCA section 6(h)(2), for chemical substances that meet the criteria of TSCA section 6(h)(1), a risk evaluation is not required to be conducted for EPA to meet its obligations under TSCA section 6(h). As discussed in the January 2021 final rule, while EPA reviewed hazard and exposure information for the PBT chemicals, this information did not provide a basis for EPA to develop scientifically robust and representative risk estimates to evaluate whether or not any of the chemicals present a risk of injury to health or the environment. Benefits were not quantified due to the lack of risk estimates. Although the benefits of the January 2021 and September 2021 final rules were not quantified, the extension would also postpone decreases in potential releases and exposures to PIP (3:1). Due to discounting, in a manner similar to costs, this postponement would lead to lower potential benefits due to continued exposures. On balance, this further extension of the compliance dates is appropriate to prevent the disruptive consequences of implementing the March 8, 2022, compliance date without a further compliance extension. The economic consequences (such as loss of supply) could be severe, given the apparent extent of the chemical in commerce. Thus, EPA has determined that the cost savings and avoidance of disruption to industry outweigh the delayed realization of benefits that may accrue from reduced exposure.

II. Background

A. The January 2021 Final Rule

A final rule for PIP (3:1) was published in the **Federal Register** on January 6, 2021 (Ref. 1). EPA determined in the final rule that PIP (3:1) met the TSCA section 6(h)(1)(A)

criteria for expedited action. In addition, EPA determined, in accordance with TSCA section 6(h)(1)(B), that exposure to PIP (3:1) was likely under the conditions of use to the general population, to a potentially exposed or susceptible subpopulation, or the environment. The PIP (3:1) final rule prohibited processing and distribution in commerce of PIP (3:1), and products or articles containing the chemical substance, for all uses after March 8, 2021, except for the following different compliance dates or exclusions:

- Use in photographic printing articles after January 1, 2022;
- Use in aviation hydraulic fluid in hydraulic systems and use in specialty hydraulic fluids for military applications;
- Use in lubricants and greases;
- Use in new and replacement parts for the aerospace and automotive industries;
- Use as an intermediate in the manufacture of cyanoacrylate glue;
- Use in specialized engine air filters for locomotive and marine applications;
- Use in sealants and adhesives after January 6, 2025; and
- Recycling of plastic that contained PIP (3:1) before the plastic was recycled, and the articles and products made from such recycled plastic, provided no new PIP (3:1) is added during the recycling or production process.

In addition, the final rule required manufacturers, processors, and distributors of PIP (3:1) and products containing PIP (3:1) to notify their customers of these restrictions. Finally, the rule prohibited releases to water from the remaining manufacturing, processing, and distribution in commerce activities, and required commercial users of PIP (3:1) and PIP (3:1)-containing products to follow existing regulations and best management practices to prevent releases to water during use.

Also defined at 40 CFR 751.403 for the purposes of 40 CFR part 751, subpart E, which includes the PIP (3:1) final rule, are the terms ''article'' and ''product'' (Ref. 5). ''Article'' is defined as a manufactured item: (1) Which is formed to a specific shape or design during manufacture, (2) Which has end use function(s) dependent in whole or in part upon its shape or design during end use, and (3) Which has either no change of chemical composition during its end use or only those changes of composition which have no commercial purpose separate from that of the article, and that result from a chemical reaction that occurs upon end use of other chemical substances, mixtures, or articles; except that fluids and particles are not considered articles regardless of shape or design. For example, laptop computers are articles, as are the internal components such as chips, wiring, and cooling fans. ''Product'' is defined as the chemical substance, a mixture containing the chemical substance, or any object that contains the chemical substance or mixture containing the chemical substance that is not an article. For example, hydraulic fluids and motor oils are products.

B. The March 2021 Notification and Request for Comments and the No Action Assurance

Shortly after the publication of the January 2021 final rule, a wide variety of stakeholders from various sectors started raising concerns about the March 8, 2021, compliance date for the prohibition on the processing and distributing in commerce of PIP (3:1) for use in articles and PIP (3:1)-containing articles (Ref. 3). These stakeholders contended that they needed significantly more time to identify whether and where PIP (3:1) might be present in articles in their supply chains, find and certify alternative chemicals, and produce or import new articles that do not contain PIP (3:1). Despite EPA's extensive outreach (Refs. 1, 2, 4 and 10), most stakeholders contacting EPA after the rule was finalized did not comment on the proposal or otherwise engage with the agency on the PIP (3:1) rulemaking, and do not appear to have previously surveyed their supply chains to determine if PIP (3:1) was being used.

Based on the concerns raised by stakeholders shortly after publication of the final rule, EPA issued a No Action Assurance (NAA) on March 8, 2021, in an effort to ensure that the supply chains of these important articles were not interrupted while the agency collected the information needed to best inform subsequent regulatory efforts (Ref. 11). The NAA was written to expire on September 4, 2021, or ''the effective date of a final action addressing the compliance date for the prohibition on processing and distributing in commerce of PIP (3:1), including in PIP (3:1)-containing articles, whichever occurs earlier.'' In addition, shortly after the NAA was issued, EPA published in the ''Proposed Rules'' part of the **Federal Register** a notification and request for comments on the five final PBT rules in general and, more specifically, on the compliance date issues with respect to PIP (3:1)-containing articles that had been raised by stakeholders (Ref. 4). The March 2021 **Federal Register** notification and request for comments is described in detail in EPA's October 2021 proposal (Ref. 10). EPA received a total of 122 comments in response to the March 2021 notification and request for comments (Ref. 9), nearly all of which addressed PIP (3:1) issues. Based on the comments received in response to the March 2021 notification and request for comments, EPA issued a final rule in September 2021, extending the compliance dates applicable to the processing and distribution in commerce of certain PIP (3:1)-containing articles, and the PIP (3:1) used to make those articles, until March 8, 2022, along with the associated recordkeeping requirements for manufacturers, processors, and distributors of PIP (3:1)-containing articles (Ref. 2). While most commenters on the March 2021 notification and request for comments requested a longer compliance date extension (Ref. 9), EPA determined that a short-term extension was necessary to ensure that the supply chains for these important articles continue uninterrupted in the near term while allowing EPA to conduct notice and comment rulemaking on a longer-term compliance date extension generally.

C. The October 2021 Proposal

Accordingly, in October 2021, EPA proposed to further extend until October 31, 2024, the compliance dates for the prohibition on the distribution in commerce of certain PIP (3:1)-containing articles, and the PIP (3:1) used to make those articles, along with the compliance date for the associated recordkeeping requirements for manufacturers, processors, and distributors of PIP (3:1)-containing articles (Ref. 10). EPA based the October 2021 proposal on the comments received on the March 2021 notification and request for comments, as well as information EPA received from stakeholders after the January 2021 final rule was published but prior to the issuance of the March 2021 notification and request for comments.

Industry stakeholders commenting on the March 2021 notification and request for comments contended that they needed more time in order to identify where PIP (3:1) might be present in their supply chains, find and certify alternatives, and produce or import new articles that do not contain PIP (3:1). As described in the October 2021 proposed rule, industry commenters identified a wide range of articles that may contain PIP (3:1), which generally is used as a flame retardant and plasticizer in plastic articles (Refs. 9 and 10). Commenters on the March 2021 notification and request

for comments also described the challenges associated with determining whether a particular article contains PIP (3:1), especially for complex goods that contain thousands of individual parts. Some commenters stated that article manufacturers may be unable to identify or confirm the PIP (3:1) content of articles, such as supplied parts and components, without laboratory testing, which can be expensive and time-consuming. As a result, companies must rely on material declarations by suppliers as a more practicable and reliable approach to determine the usage of PIP (3:1) within an article. However, the ability to obtain material composition data from across the supply chain may be limited (Ref. 12).

As described in the October 2021 proposal, nearly all of the industry commenters responding to EPA's March 2021 notification and request for comments stated that they needed several years to phase PIP (3:1) out of their articles (Refs. 9 and10). Estimated timelines provided by commenters in response to the March 2021 notification and request for comments ranged from 2.25 years to 15 years or more (Ref. 9). Given the varying estimates, and the lack of detail accompanying some of those estimates, EPA proposed to further extend the compliance dates until October 31, 2024, which was consistent with the lower end of the time estimates provided by commenters. EPA reasoned that this would avoid significant disruption in the supply chains for certain articles and would provide the public with regulatory certainty while EPA determines whether any further compliance date extensions are necessary for certain industry sectors, based on information submitted in the context of revisions to the PBT rules more generally. As announced in March 2021 and in the October 2021 proposal, EPA intends to consider any additional information of this kind in the context of revisions to the final PBT rules to further reduce exposures, promote environmental justice, and better protect human health and the environment. More information on the March 2021 notification and request for comments, and a summary of the comments received in response to the notification, are in the October 2021 proposal (Ref. 10).

III. Comments on the October 2021 Proposal

EPA received a total of 40 public comments on the October 2021 proposal: 38 from industry stakeholders, one from environmental, public health, children's health organizations, and one from a tribal partnership group (Ref. 13). Many of the industry commenters on this proposal also commented on the March 2021 notification and request for comments, some providing additional details about their efforts to identify PIP (3:1) in their supply chains since the earlier public comment period.

A. Comments Supporting the Proposed Compliance Dates or Further Extensions

Approximately one-third of the industry commenters on the October 2021 proposal expressed qualified support for the proposed compliance date of October 31, 2024, for the prohibition on the processing and distribution in commerce of certain PIP (3:1)-containing articles and the PIP (3:1) used to make those articles.

1. Summary of Public Comments Supporting Extension of Compliance Dates

A commenter from the heating, ventilation, air-conditioning, and refrigeration (HVACR) industry noted that their comments on the March 2021 notification and request for comments provided two scenarios for the length of time needed to eliminate PIP (3:1) in their supply chains (Ref. 14). While the first scenario resulted in an estimate of three years to complete the phase-out of PIP (3:1), the commenter noted that this was a best-case scenario, assuming that a number of potential difficulties with identifying PIP (3:1) in the supply chain and scheduling scarce laboratory time for recertifications would be eliminated. The more realistic scenario, according to this commenter, was the scenario that estimated that a period of five years would be needed to eliminate PIP (3:1) in their supply chain. This commenter reiterated concerns with the process for eliminating PIP (3:1), noting that it remains difficult to obtain information from suppliers, testing is an expensive and time-consuming alternative, and that it will be challenging to find and test substitute chemicals with the fire-retardant characteristics of PIP (3:1) for every application. The commenter further explained that the industry is dealing with a shortage of acrylonitrile butadiene styrene plastic due to the ongoing COVID–19 pandemic as well as a mandatory refrigerant transition. Finally, this commenter contended that the compliance date should be a ''manufactured-by'' date, rather than a processing and distribution in commerce prohibition, and expressed concern over the need for replacement parts for equipment that is produced before the ''manufactured-by'' date.

Commenters from the consumer technology sector noted that they had originally estimated in their comments on the March 2021 notification and request for comments that they would need four years to phase PIP (3:1) out of their articles, but now believe that they can achieve this by October 31, 2024 (Ref 15). They conditioned their support for the 2024 date on the date being a ''manufactured-by'' date, rather than a prohibition on processing and distribution in commerce, and also raised the issue of replacement parts for consumer articles produced before the ''manufactured-by'' date.

The home appliance industry also supported the October 2024 date, noting that their comments on the March 2021 notification and request for comments recommended a three-year extension of the compliance date. They also requested that the compliance date be applied as a ''manufactured-by'' date, and that there be an exclusion for spare or replacement parts (Ref. 16).

Other commenters maintained that they would need more time to complete a phase-out of PIP (3:1) from their supply chains. A commenter from the electrical manufacturing industry stated that they would need at least five years to eliminate PIP (3:1) in their articles, and eight years would be preferred (Ref. 17). The commenter described the complexity of the sector's supply chains, estimating that six to twelve months would be needed to identify PIP (3:1) in articles and two to three years would be needed to identify an alternative, after which it would be necessary to test and certify components made with the alternative. This commenter also noted that it would be very expensive to replace PIP (3:1) throughout the electrical manufacturing industry. Finally, this commenter stated that an additional three years would be needed for ''sell-through,'' *i.e.,* allowing articles made with PIP (3:1) to clear the supply chain.

Several commenters from the semiconductor manufacturing industry indicated that they would need a phase-out timeline of at least fifteen years (Refs. 12, 18, and 19). One commenter noted that the same considerations that led EPA to exclude new and replacement parts for the aerospace and automotive industry from the January 2021 final rule could be applied to the semiconductor manufacturing industry and, therefore, that industry should also be excluded (Ref. 12). This commenter suggested a fifteen-year delay in the compliance date for the semiconductor manufacturing industry, which was consistent with the comments this commenter provided in May 2021. The commenter provided a chart showing the typical cycle for one part going through an engineering change under

normal conditions. While the chart showed that the process could be completed in ten years, and that process steps could overlap, the commenter noted that a PIP (3:1) phase-out would involve the entire industry going through these processes for many parts at once, leading to numerous logjams. The commenter estimated that 30 months would be needed to identify PIP (3:1)-containing components in the supply chain, 20 months would be needed to identify and test alternatives, 6 to 48 months would be needed to requalify suppliers to the manufacturer's requirements, 18 months would be needed to laboratory testing and recertification, and 36 months would be needed for customer qualification (Ref. 12).

In addition to comments regarding the extension of compliance dates for prohibitions, one commenter further requested that EPA make the compliance date for recordkeeping for excluded articles, such as new and replacement automotive parts, consistent with the recordkeeping compliance date for articles that are the subject of this rulemaking (Ref. 20).

2. EPA Response

EPA notes that one-third of the commenters overall estimated that impacted industries would be able to comply with the October 2024 compliance date, albeit with some reservations related to replacement parts, the ability to sell articles produced before the compliance date, and pandemic impacts on global supply chains. EPA appreciates the efforts that many of the commenters made to provide the details requested by EPA in the October 2021 proposal as to:

- The specific uses of PIP (3:1) in articles throughout their supply chains;
- Concrete steps taken to identify, test, and qualify substitutes for those uses, including details on the substitutes tested and the specific certifications that would require updating;
- Estimates of the time required to identify, test, and qualify substitutes with supporting documentation; and
- Documentation of the specific need for replacement parts, which may include the documented service life of the equipment and specific identification of any applicable regulatory requirements for the assurance of replacement parts.

EPA also appreciates the comments that provide updated estimates of needed time to comply and which provide more detailed information than was provided in response to the March 2021 notification and request for comments. Overall, EPA finds the description of concrete steps taken in some industries to identify alternatives or continue engaging in phase-outs to provide a compelling rationale for the need for an extension of the compliance date to October 31, 2024, with an expectation that in several industries this extension would be sufficient. While EPA appreciates the information submitted by some commenters to support a further compliance date extension beyond October 31, 2024, EPA also recognizes that, for many industries, the collection of this information is still ongoing. EPA does not find that the Agency has sufficient information at this time to identify an appropriate compliance date beyond October 31, 2024, or to justify extending the compliance date beyond October 31, 2024. As commenters stated, obtaining information from suppliers continues to present challenges, and EPA anticipates that additional time to investigate supply chains as well as substitute chemicals will result in more robust information regarding the need for compliance date extensions beyond October 31, 2024, including the number of years that will be needed to qualify the substitutes and distribute them throughout the supply chain. As discussed in the October 2021 proposal and in more detail in Unit IV.B., EPA will consider any additional information on this issue in the context of the broader rulemaking EPA plans to undertake for PIP (3:1) and other PBTs. As part of that broader rulemaking, EPA will also review the justifications underlying the exclusions in the January 2021 PIP (3:1) final rule to consider whether to adopt new restrictions for activities currently excluded, such as new and replacement automotive and aerospace vehicle parts, consistent with the statutory directive to reduce exposure to the extent practicable.

Regarding commenters' statements that compliance date extensions should be combined with a further regulatory change allowing for a ''manufactured-by'' date, rather than a processing and distribution in commerce prohibition, EPA's response is provided in Unit III.D.2.

Regarding compliance dates for recordkeeping, based on the comments received from the non-road mobile machinery and other similar industries (described in more details in comments requesting exclusions from the prohibitions), EPA understands that the scope of the exclusion for new and replacement motor vehicle parts is broader than what would strictly be considered the automotive industry, and not all suppliers eligible for the motor vehicle parts exclusion participate in the automotive industry's recordkeeping system. EPA recognizes the benefits in extending the recordkeeping compliance date in the way described by the commenter; details of the recordkeeping compliance date extension are described in Unit IV.B.

B. Comments Supporting Exclusions

A number of commenters from the construction, agriculture, mining, forestry and utility industries, which EPA is referring to as the non-road mobile machinery industry, argued that they should be afforded the same exclusion that was provided in the January 2021 final rule for new and replacement parts for the aerospace and automotive industries.

1. Summary of Public Comments Supporting Exclusions

One commenter from the non-road mobile machinery industry stated that this industry faces the same types of safety, design, manufacturing and purchasing issues experienced by the aerospace and automotive sectors (Ref. 22). According to the commenter, this leads to overlapping supply chains with the much-larger aerospace and automotive industries. As a result of these overlapping supply chains, the exclusions granted to the aerospace and automotive industries, without a similar exclusion for the non-road mobile machinery industry, greatly complicate efforts to comply with the provisions of the January 2021 final rule in that the non-road mobile machinery industry may be forced to find new suppliers to provide replacements for PIP (3:1)-containing components at a higher cost.

As an alternative to an exclusion, this commenter stated that they would need seven years to eliminate PIP (3:1)-containing components from their supply chain. The commenter provided a detailed timeline in support of this assertion, as well as an estimate of the costs that would be incurred in eliminating PIP (3:1). Other commenters supported a seven-year delayed compliance date as an alternative to their preferred approach of excluding the heavy machinery industry (Refs. 22 and 23).

Relatedly, commenters representing the automotive and similar industries, such as the non-road mobile machinery industry, requested that EPA clarify several provisions. Several commenters noted that EPA had provided its understanding of the meaning of the term ''motor vehicle,'' as that term is used in the January 2021 final rule, to stakeholders upon request (Ref. 20, 22, and 24). These commenters asked that

EPA provide its understanding of the term ''motor vehicle'' in the regulatory text itself, or in a companion guidance document.

2. EPA Response

EPA appreciates the detailed estimates that several commenters provided describing the time that would be needed to identify PIP (3:1) in their supply chain, find and test alternatives, recertify and requalify parts and finished goods, and distribute them through the supply chain (Ref. 21). EPA notes that some of the articles produced by these commenters would be considered motor vehicles. As EPA has stated in response to stakeholder inquiries (Refs. 20, 22, and 24), EPA generally interprets the term ''motor vehicle'' to mean a transport vehicle that is propelled or drawn by mechanical power, such as cars, trucks, motorcycles, boats, and construction, agricultural, and industrial machinery. To the extent that the commenters produce motor vehicles, they are currently covered under the exclusion provided in the January 2021 final rule for new and replacement motor vehicle parts. However, as EPA announced in the March 2021 notification and request for comments and further described in the October 2021 proposal, EPA, as part of its planned future rulemaking on all five of the PBTs, will review the justifications underlying the exclusions in the January 2021 PIP (3:1) final rule to consider whether to adopt new restrictions for activities currently excluded, consistent with the statutory directive to reduce exposure to the extent practicable (Refs. 4 and 10). As noted previously, in the future rulemaking, EPA will also consider comments addressing any need for a further extension to compliance dates that have already been extended. For example, in the upcoming rulemaking, EPA intends to evaluate whether a compliance date can be established for new automotive parts that contain PIP (3:1). As part of that evaluation, EPA will consider a similar compliance date for adjacent industries, such as non-road mobile machinery, given that they share supply chains. Similarly, EPA appreciates the suggestion from the commenters regarding a definition of ''motor vehicle'' in the regulatory text and will consider proposing such a definition in relevant regulatory text as part of the upcoming broader rulemaking on PIP (3:1) and other PBT chemicals.

C. Comments Opposed to Further Compliance Date Extensions

In contrast to industry commenters, commenters from environmental, public health, children's health organizations, or tribal partnership groups contended that no additional compliance date delay was warranted.

1. Summary of Public Comments Opposed to Further Compliance Date Extensions

Two commenters expressed concern over the additional exposures that could result from further extensions to the compliance date, including to children, persons who are exposed to PIP (3:1) through multiple pathways, subsistence fishers and others who are likely to have higher dietary exposures than those of the general population, and persons exposed through the disposal of PIP (3:1)-containing materials at certain landfills and through open burning (Refs. 25 and 26).

One comment from several environmental, public health, and children's health organizations stated that an extension of the compliance date would perpetuate exposure to a toxic chemical contrary to the statutory requirement to take expedited action to reduce exposure to the extent practicable for the PBT chemicals (Ref. 25). The comment emphasized that a further extension of the compliance deadline would reward industry's lack of participation in the regulatory process that preceded the January 2021 final rules, and stated their position that EPA failed to justify the proposed compliance extension by dismissing its impact on exposure risks, instead focusing only on industry hardship, and that this approach contravenes Congress' intent in TSCA. The commenter cited EPA's proposed rule to note that PIP (3:1) is among the highest scoring PBT chemicals based on its scores for hazard, exposure, and persistence and bioaccumulation. The commenter also stated that, because the general prohibition against PIP (3:1) took effect within sixty days, the commenter believed that EPA had not considered whether there were steps that could be taken during a multi-year phase-in period to reduce exposure to PIP (3:1), such as public notifications and labeling of products containing PIP (3:1) or additional safeguards for the workers who manufacture, recycle, or dispose of those products (Ref. 25). Additionally, the comment cited studies in stating that the proposed extension will be especially harmful to communities where PIP (3:1) is manufactured, imported, released, and disposed of, and that multiple exposures to PIP (3:1) would have a disproportionate impact on those communities that raise environmental justice concerns. The commenter added that the proposed extension will be especially harmful to children, providing citations of industry reports of the presence of PIP (3:1) in children's products. Finally, the commenter requested that EPA initiate information gathering rulemakings under TSCA section 8(a) to prevent any future attempts by industry to evade regulatory control on the basis of ignorance of chemicals present in products and supply chains.

The National Tribal Toxics Council (NTTC), an EPA Tribal Partnership group, stated that, prior to the original compliance date, EPA had provided more than adequate advance notice as well as ample opportunities for stakeholder engagement, and thus further extensions are not warranted. The commenter emphasized that any regulatory action that pertains to PBTs has significant tribal implications, and expressed concern that the rule would result in 31 additional months of PIP (3:1) products being disposed in or near tribal lands without monitoring for environmental releases (Ref. 26).

2. EPA Response

EPA appreciates the commenters' descriptions of their concerns, their input during the current and previous rulemakings, and their support of EPA's stakeholder engagement process. EPA agrees that earlier industry stakeholder engagement during the multiple years the original PIP (3:1) regulation was under development would have been of great help to EPA in crafting practicable compliance dates for various industry sectors as is required by TSCA section 6(d)(1). EPA also acknowledges that PIP (3:1) scores high for hazard, exposure, and persistence and bioaccumulation. However, EPA finds the information industry stakeholders have provided in response to the March 2021 and October 2021 notices to be compelling justification for the necessity of extension of the relevant compliance dates to October 2024 because of the potential for significant disruption to the supply chains for important articles such as HVACR equipment and personal electronics.

EPA appreciates the recommendations for steps that could be taken to phase out PIP (3:1) or further reduce exposure, such as the public notifications or worker protections the commenter described. EPA will consider these recommendations as part of EPA's planned future rulemaking on

PIP (3:1) and other PBTs, as described in the October 2021 proposal, and EPA will be seeking more detailed comments and information on issues of this kind to determine whether additional measures as proposed would be practicable. Similarly, as part of that future rulemaking, EPA will assess how environmental justice could be promoted through further exposure reduction. While EPA has taken note of the information provided by the commenters on the reports of PIP (3:1) in products used by children, as well as the potential impacts on communities near importers of PIP (3:1), EPA emphasizes that the agency has not determined at what level exposure to PIP (3:1) represents a risk to human health or the environment. In the future rulemaking on PIP (3:1) and other PBTs, EPA intends to identify whether exposure to PIP (3:1) could be further practicably reduced, including by reducing or removing current exclusions from prohibitions or by modifying compliance timeframes. EPA emphasizes that, as part of the future rulemaking, information such as that provided in the comment will be considered.

Regarding the concerns raised in both comments regarding tribes and environmental justice communities, EPA recognizes that while the compliance date extension may result in the potential for exposures that might otherwise have been precluded, EPA does not have information to suggest that such potential exposures are likely to be substantial or direct. For example, according to another commenter, the risk of exposure to PIP (3:1) to workers, consumers, and end-users is low because the PIP (3:1) is generally incorporated into the composition (polymer matrix) of the components that are internal to equipment accessible only by trained technicians (Ref. 14). In contrast, EPA does know that the use of PIP (3:1) for these articles in the near term is necessary to avoid significant disruption to the supply chains for certain important articles such as HVACR systems and personal electronic devices such as cellular telephones. Thus, an earlier compliance date would not be practicable or provide a reasonable transition period as is required by TSCA section 6(d)(1). More information on TSCA section 6(d) is provided in Unit IV.A. As EPA works to develop planned future rulemakings on PIP (3:1) and other PBTs, described in the October 2021 proposal, EPA will consider to what extent impacts to tribes and environmental justice communities could be reduced further and welcomes NTTC's interest in tribal consultation and developing a more effective process for determining whether an action is of tribal significance.

EPA agrees with commenters' concern regarding several industries' lack of information on the presence of chemicals in their supply chains, particularly in imported articles. EPA notes that the commenters' recommendation for promulgation of a rule under TSCA section 8 is outside the scope of this compliance date extension.

D. Comments on Other Topics

Commenters also provided information on other topics, including their interest in a ''manufactured-by'' date for articles, applicability of the rule to replacement parts, and establishment of a *de minimus* threshold. Additionally, a commenter requested clarification of downstream notification requirements.

1. Summary of Comments on Other Topics

Many of the industry commenters stated that the compliance date referenced in the proposal should be a ''manufactured-by'' date, rather than a compliance date for a prohibition on processing and distribution in commerce. By this, the commenters generally meant that any article manufactured before the ''manufactured-by'' date could be processed and distributed in commerce at any time in the future without restriction. One commenter noted that the only date that the industry has control over is the date by which an article is manufactured (Ref. 15). The commenter asserted that manufacturers of consumer goods and EPA could more readily determine compliance using this approach because a ''manufactured-by'' date can be confirmed based on unique product identifiers, such as lot or serial numbers, that are often marked on the article. According to the commenter, retailers do not have control over how quickly goods are sold and do not necessarily operate under a first-in, first-out system, which adds to the challenge of inventory management. The commenter further stated that in the absence of a ''manufactured-by'' compliance date, retailers would be unable to determine whether a good was compliant, *i.e.,* does not contain PIP (3:1). This commenter stated that an ''imported-by'' date would present challenges for the industry, primarily due to the potential for import delays associated with the process itself as well as with shipping, which have been exacerbated by the COVID–19 pandemic. However, the commenter stated that an ''imported-by'' date would be more manageable for the industry than a compliance date associated with distribution in commerce.

Another commenter stated that the date of compliance should be a ''manufactured-by'' date for domestically produced articles, and an ''imported-by'' date for those articles produced abroad (Ref. 27). This commenter noted that distributors do not necessarily ship finished goods based on when they receive them, and it may be difficult for manufacturers, importers, distributors, and retailers to differentiate with certainty between goods that appear the same but may have different chemical compositions. This commenter further noted that a distribution in commerce prohibition is also unworkable because distribution in commerce has been very broadly interpreted by EPA to include, in some cases, any movement of a regulated product, even among facilities within the same business enterprise and its affiliates and subsidiaries.

While some commenters (Refs. 15 and 27) stated that the only compliance date should be a ''manufactured-by'' date, or ''imported-by'' date, other commenters indicated that a restriction on distribution in commerce might be workable as long as sufficient time was provided for articles manufactured before the ''manufactured-by'' date to move through the channels of trade to the end user. These commenters often used the phrase ''sell-through'' to describe the date by which sales of articles manufactured before the ''manufactured-by'' date must cease. Two commenters stated that a three-year ''sell-through'' date would be adequate (Refs. 17 and 28). One commenter representing the retail industry indicated that the minimum time needed would be 18 months, based on more-detailed information provided by a retailer of electronic products (Ref. 29). This commenter noted that more time would be needed for products that tend to sell more slowly, such as furniture.

Many of the industry commenters also expressed concern over the applicability of the January 2021 final rule's provisions only to some types of replacement parts. One commenter noted that HVACR and water-heating equipment can safely remain in operation for as long as fifty years or more and, in many cases, buildings are designed and built around such equipment, making it difficult to replace (Ref. 28). This commenter contended that to ensure that this critical HVACR and water heating equipment can still function in the future, the components

and parts used in servicing the equipment must be able to be used without restriction. Another commenter stated that components or parts of articles typically are held by the manufacturer until needed for repair or replacement (Ref. 15). The commenter noted that electronic finished goods may have warranties upwards of fifteen years, meaning that components or parts of articles for repair or replacement can be kept in a manufacturer's warehouse for well over a decade. This commenter further explained that, when transitioning from one generation of an electronic finished good to the next, spare parts for the first generation are bought under a ''last time buy'' from the supplier to create the inventory of spare parts needed to support warranty claims. After this ''last time buy'', the tooling needed to manufacture those parts is decommissioned. The commenter further noted that spare and replacement parts or articles that contain PIP (3:1) would be expected to be in inventory well past the proposed October 2024 compliance date, but the ''manufactured-by'' date approach would solve this problem.

A number of commenters recommended that EPA establish a *de minimis* threshold for PIP (3:1) regulation, particularly in articles. Commenters gave a variety of reasons for why EPA should establish a threshold level. One commenter stated that the difficulty in determining whether PIP (3:1) is present in a component article was at least partly due to potential discomfort with claiming absolute ''zero'' PIP (3:1) when there is ambiguity about how that will be determined or whether it is feasible to determine due to the potential for miniscule contamination (Ref. 30). This commenter contended that ambiguity in the material declaration process makes that process extremely time consuming and adds months to the process for each supplier. Other commenters also expressed concern for the potential for trace contamination and the feasibility of controlling such contamination (Refs. 15 and 31). Another commenter noted the high expense that is entailed by having to test down to the detection limit in the absence of a *de minimis* threshold (Ref. 21). Yet another commenter noted that other chemical regulatory programs such as REACH incorporate a *de minimis* threshold (Ref. 16).

One commenter requested that EPA clarify the downstream notification requirements for manufacturers, processors, and distributors of PIP (3:1) for use in certain articles, and whether those requirements would be extended along with the compliance dates for the prohibition on processing and distribution of certain PIP (3:1) containing articles (Ref. 27).

2. EPA Response

EPA generally recognizes the challenges described by these commenters in determining whether and where PIP (3:1) is present in articles in their supply chains, how long it may take to clear those PIP (3:1)-containing articles through the channels of trade, and the steps needed to phase PIP (3:1) out of articles in the supply chain. EPA will consider these comments in the context of the broader rulemaking EPA plans to undertake for PIP (3:1) and other PBT chemicals (Ref. 10). In that rulemaking, EPA plans to request public comment on the utility as well as the drawbacks of a ''manufactured-by'' date and the amount of time needed for articles to clear the channels of trade, the applicability of the rule to replacement parts, and a *de minimis* threshold in the context of reducing exposure to PIP (3:1) to the extent practicable. Regarding the request for clarification regarding downstream notification requirements, EPA is not extending the compliance date for downstream notification requirements to align with the extended compliance dates for PIP (3:1)-containing articles in this final rule. The downstream notification requirements apply only to the chemical PIP (3:1) and mixtures (products) that contain the chemical PIP (3:1); they are not applicable to PIP (3:1) containing articles. However, EPA is conforming the required downstream notification language with the compliance date extensions. Details of these amendments are in Unit IV.C.

IV. Provisions of this Final Rule

A. Establishing a Revised Compliance Date

TSCA section 6(d) includes a number of provisions relating to establishment of effective or compliance dates in rules promulgated under TSCA section 6. Specifically, TSCA section 6(d)(1)(A) directs EPA to specify a date on which the TSCA section 6(a) rule is to take effect that is ''as soon as practicable.'' TSCA section 6(d)(1)(B) requires EPA to specify mandatory compliance dates for each requirement of a rule promulgated under TSCA section 6(a), which must be as soon as practicable but no later than five years after promulgation except as provided in subsections (C) and (D) or in the case of a use exempted under TSCA section 6(g). TSCA section 6(d)(1)(C) states that EPA must specify mandatory compliance dates for the start of ban or phase-out requirements under a TSCA section 6(a) rule, which must be as soon as practicable but no later than five years after promulgation, except in the case of a use exempted under TSCA section 6(g); and TSCA section 6(d)(1)(D) requires EPA to specify mandatory compliance dates for full implementation of ban or phase-out requirements under a TSCA section 6(a) rule, which must be as soon as practicable. Additionally, TSCA section 6(d)(1)(E) directs EPA to provide for a reasonable transition period.

As noted in the preamble to the January 2021 final rule, the term ''practicable'' as used in the phrase ''to the extent practicable'' in TSCA section 6(h) is undefined, the phrases ''as soon as practicable'' and ''reasonable transition period'' as used in TSCA section 6(d)(1) are also undefined, and the legislative history on each provision is limited. Given the ambiguity in the statute, for purposes of the January 2021 final rule under TSCA section 6(h), EPA presumed a 60-day compliance date was ''as soon as practicable'' where EPA determined a prohibition or restriction was practicable, unless there was support for a lengthier period of time on the basis of reasonably available information, such as information submitted in comments on the Exposure and Use Assessment or on the proposed rule, or in stakeholder dialogues. At the time, EPA believed that such a presumption would ensure that the compliance schedule is ''as soon as practicable,'' particularly in the context of the TSCA section 6(h) rules for chemicals identified as persistent, bioaccumulative and toxic, and given that the expedited timeframe for issuing a TSCA section 6(h) proposed rule did not allow time for collection and assessment of new information separate from the comment opportunities during the development of and in response to the proposed rule. EPA noted that this approach also allowed for submission of information from the sources most likely to have the information that would impact an EPA determination on whether or how best to adjust the compliance deadline to ensure that the final compliance deadline chosen was both ''as soon as practicable'' and provides a ''reasonable transition period.''

As noted in the September 2021 final rule and the October 2021 proposal, despite significant outreach efforts, EPA did not receive timely or specific input from certain stakeholders during any public comment periods prior to issuance of the January 2021 final rule regarding the presence of PIP (3:1) in myriad articles (Refs. 2 and 10). Absent

this input, in the January 2021 final rule, EPA determined that PIP (3:1) was not widely present in articles outside the aerospace and automotive sectors and that the presumption that a 60-day compliance date was practicable was appropriate. The comments received in response to EPA's March 2021 notification and request for comments, and the communications received before that document published in in the **Federal Register**, presented new information demonstrating that a 60-day compliance date was not practicable and did not provide a reasonable transition period for the full implementation of a ban or phase-out for many industries.

B. Compliance Dates in this Final Rule

Based upon EPA's analysis of the comments received on the October 2021 proposal, along with the information provided in comments received on the March 2021 notification and request for comments, EPA is extending until October 31, 2024, the compliance date for the prohibition on processing and distribution in commerce of PIP (3:1)-containing articles, and the PIP (3:1) used to make those articles. As discussed in the October 2021 proposal, and in the response to comments earlier, the October 2024 compliance date is consistent with the lower end of the time estimates provided by commenters on the March 2021 notification and request for comments. As described in Unit III.A., approximately one-third of the commenters on the October 2021 proposal estimated that they would be able to comply with the October 2024 compliance date, albeit with some reservations related to replacement parts, the ability to sell articles produced before the compliance date, and COVID–19 pandemic impacts on global supply chains. EPA has determined that this further extension of the March 8, 2022 compliance date to October 31, 2024, for the prohibition on processing and distribution in commerce is necessary to avoid significant disruption in the supply chains for certain articles, such as HVACR equipment and consumer electronics, and will provide a measure of regulatory certainty while industry collects and submits additional information to inform whether a further compliance date extension may be necessary for certain industry sectors, such as the semiconductor manufacturing industry. While EPA expects that that in several industries this extension would be sufficient, EPA also recognizes the challenges described by commenters with complex supply chains and the potential need for a longer compliance date extension in certain industries. The compliance date extension to October 31, 2024, will allow EPA additional time to further evaluate the need to again extend the compliance deadlines for PIP (3:1) for certain industries such as the semiconductor manufacturing industry. As discussed in the October 2021 proposal and in more detail in Unit II.C., EPA plans to consider this information in the context of revisions to PIP (3:1) and other PBT rules more generally.

EPA is also extending the recordkeeping compliance date in 40 CFR 751.407(d) for PIP (3:1)-containing articles until October 31, 2024. Because industry is still in the process of identifying whether and where PIP (3:1) is present in many of the articles in their supply chains, it would be difficult, if not impossible, for them to supply the required information. Additionally, as described earlier, a public comment requested that EPA make the compliance date for recordkeeping for excluded articles, such as new and replacement automotive parts, consistent with the recordkeeping compliance date for articles that are the subject of this rulemaking (Ref. 20). Based on the comments received from the non-road mobile machinery and other similar industries, EPA understands that not all suppliers eligible for the motor vehicle parts exclusion participate in the automotive industry's recordkeeping system. Therefore, EPA is extending the recordkeeping compliance dates specified in paragraphs 40 CFR 751.407 (a)(2)(iii) and (d)(4) from March 8, 2022, to October 31, 2024. However, the compliance dates specified in 40 CFR 751.407(a)(2)(ii) remain in effect.

EPA also recognizes that, for many industries, the collection of information on the presence of PIP (3:1) in their supply chains is still ongoing. As discussed in the October 2021 proposal, EPA will consider any additional information of this kind in the context of the broader rulemaking EPA plans to undertake for PIP (3:1) and other PBT chemicals (Ref. 10). In that future rulemaking, EPA also plans to consider the comments, discussed in Unit III.D., regarding a ''manufactured-by'' date, replacement parts, and a *de minimis* threshold.

C. Conforming Amendments to the Downstream Notification Requirements

In reviewing the comments received on the October 2021 proposal (*e.g.,* Ref. 27), EPA realized that the downstream notification requirements in the January 2021 final rule could be misleading, resulting in potential confusion for the regulated community. 40 CFR 751.407(e) requires manufacturers, processors, and distributors in commerce of PIP (3:1) and PIP (3:1)-containing products to provide notification of the restrictions on the chemical substance to their customers, either through specific mandatory language on a Safety Data Sheet (SDS) or a label. EPA notes that the notification requirements only apply to the chemical PIP (3:1) or to products containing the chemical PIP (3:1). As discussed in Unit II.A., the term ''product'' excludes articles. Therefore, the downstream notification requirements on 40 CFR 751.407(e) do not apply to PIP (3:1)-containing articles.

However, the mandatory language in 40 CFR 751.407(e)(3)(i) through (iii) does not reflect the fact that EPA is extending the compliance date for the prohibition on processing and distribution in commerce of certain PIP (3:1)-containing articles. Thus, purchasers of PIP (3:1) and PIP (3:1)-containing products who intend to use them in articles may be confused by the mandatory language on an SDS or a label that says that they may not use the PIP (3:1) or PIP (3:1)-containing product in this manner. Therefore, EPA is amending the mandatory language at 40 CFR 751.407(e)(3)(i) through (iii) to conform to the compliance date extension for the prohibition on processing and distribution in commerce of certain PIP (3:1)-containing articles.

V. References

The following is a listing of the documents that are specifically referenced in this document. The docket includes these documents and other information considered by EPA, including documents that are referenced within the documents that are included in the docket, even if the referenced document is not physically located in the docket. For assistance in locating these other documents, please consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

1. EPA. Phenol, Isopropylated Phosphate (3:1) (PIP (3:1)); Regulation of Persistent, Bioaccumulative, and Toxic Chemicals Under TSCA Section 6(h); Final Rule. **Federal Register** (86 FR 894, January 6, 2021) (FRL–10018–88).
2. EPA. Regulation of Persistent, Bioaccumulative, and Toxic Chemicals Under TSCA Section 6(h); Phenol, Isopropylated Phosphate (3:1); Compliance Date Extension. **Federal Register** (86 FR 51823, September 17, 2021) (FRL–6015.5–03–OCSPP).

3. Letter from the Consumer Technology Association (CTA) and the Information Technology Industry Council (ITI) to EPA on March 15, 2021. EPA–HQ–OPPT–2021–0202–0015.
4. EPA. Regulation of Persistent, Bioaccumulative, and Toxic Chemicals Under TSCA Section 6(h); Phenol, Isopropylated Phosphate (3:1); Request for Comments. **Federal Register** (86 FR 14398, March 16, 2021) (FRL–10021–08).
5. 2,4,6-Tris(tert-butyl)phenol (2,4,6–TTBP); Regulation of Persistent, Bioaccumulative, and Toxic Chemicals Under TSCA Section 6(h); Final Rule. **Federal Register** (86 FR 866, January 6, 2021) (FRL–10018–90).
6. EPA. Decabromodiphenyl Ether (DecaBDE); Regulation of Persistent, Bioaccumulative, and Toxic Chemicals Under TSCA Section 6(h); Final Rule. **Federal Register** (86 FR 880, January 6, 2021) (FRL–10018–87).
7. EPA. Pentachlorothiophenol (PCTP); Regulation of Persistent, Bioaccumulative, and Toxic Chemicals Under TSCA Section 6(h); Final Rule. **Federal Register** (86 FR 911, January 6, 2021) (FRL–10018–89).
8. EPA. Hexachlorobutadiene (HCBD); Regulation of Persistent, Bioaccumulative, and Toxic Chemicals Under TSCA Section 6(h); Final Rule. **Federal Register** (86 FR 922, January 6, 2021) (FRL–10018–91).
9. Comments submitted to EPA. Regulation of Persistent, Bioaccumulative, and Toxic Chemicals Under TSCA Section 6(h). EPA–HQ–OPPT–2021–0202–0001.
10. EPA. Regulation of Persistent, Bioaccumulative, and Toxic Chemicals Under TSCA Section 6(h); Phenol, Isopropylated Phosphate (3:1); Further Compliance Date Extension. **Federal Register** (86 FR 59684, October 28, 2021) (FRL–6015.6–01–OCSPP).
11. EPA. No Action Assurance Regarding Prohibition of Processing and Distribution of Phenol Isopropylated Phosphate (3:1), PIP (3:1) for Use in Articles, and PIP (3:1)-containing Articles under 40 CFR 751.407(a)(1). March 8, 2021. *https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/public-comment-period-pbt-rules-and-no-action-assurance.*
12. Comment submitted by SEMI to EPA on December 22, 2021. EPA–HQ–OPPT–2021–0598–0038.
13. Comments submitted to EPA. Regulation of Persistent, Bioaccumulative, and Toxic Chemicals Under TSCA Section 6(h); Phenol, Isopropylated Phosphate (3:1); Further Compliance Date Extension. EPA–HQ–OPPT–2021–0598–0001.
14. Comment submitted by Air Conditioning, Refrigeration, and Heating Institute (AHRI) to EPA on December 21, 2021. EPA–HQ–OPPT–2021–0598–0027.
15. Comment submitted by Consumer Technology Association (CTA), IPC and Information Technology Industry Council (ITI) to EPA on December 21, 2021. EPA–HQ–OPPT–2021–0598–0030.
16. Comment submitted by the Alliance of Home Appliance Manufacturers (AHAM) to EPA on December 23, 2021. EPA–HQ–OPPT–2021–0598–0033.
17. Comment submitted by the National Electrical Manufacturers Association (NEMA) to EPA on December 22, 2021. EPA–HQ–OPPT–2021–0598–0031.
18. Comment submitted by the Semiconductor Industry Association (SIA) to EPA on December 21, 2021. EPA–HQ–OPPT–2021–0598–0025.
19. Comment submitted by Hitachi High-Tech America, Inc. (HTA) to EPA on December 22, 2021. EPA–HQ–OPPT–2021–0598–0041.
20. Comment submitted by Alliance for Automotive Innovation and Motor & Equipment Manufacturers Association (MEMA) to EPA on December 23, 2021. EPA–HQ–OPPT–2021–0598–0046.
21. Comment submitted by the Association of Equipment Manufacturers (AEM) to EPA on December 23, 2021. EPA–HQ–OPPT–2021–0598–0047.
22. Comment submitted by Truck and Engine Manufacturers Association (EMA) to EPA on December 23, 2021. EPA–HQ–OPPT–2021–0598–0044.
23. Comment submitted by Kubota North America Corporation (KNA) to EPA on December 21, 2021. EPA–HQ–OPPT–2021–0598–0028.
24. Comment submitted by the Outdoor Power Equipment Institute (OPEI) to EPA on December 22, 2021. EPA–HQ–OPPT–2021–0598–0032.
25. Comment submitted by Alaska Community Action on Toxics *et al.* to EPA on December 23, 2021. EPA–HQ–OPPT–2021–0598–0043.
26. Comment submitted by National Tribal Toxics Council (NTTC) To EPA on December 27, 2021. EPA–HQ–OPPT–2021–0598–0057.
27. Comment submitted by Chemical Users Coalition (CUC) to EPA on December 22, 2021. EPA–HQ–OPPT–2021–0598–0036.
28. Comment submitted by Air Conditioning, Heating, and Refrigeration Institute (AHRI) to EPA on December 21, 2022. EPA–HQ–OPPT–2021–0598–0027.
29. Comment submitted by the Retail Industry Leaders Association (RILA) to EPA on December 27, 2021. EPA–HQ–OPPT–2021–0598–0055.
30. Comment submitted by Advanced Medical Technology Association (AdvaMed) to EPA on December 17, 2021. EPA–HQ–OPPT–2021–0598–0022.
31. Comment submitted by Thermo Fisher Scientific to EPA on December 24, 2021. EPA–HQ–OPPT–2021–0598–0049.

VI. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *https://www2.epa.gov/lawsregulations/laws-and-executive-orders.*

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

This action is a significant regulatory action under Executive Order 12866 (58 FR 51735, October 4, 1993) and was submitted to the Office of Management and Budget (OMB) for review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011). Any changes made in response to OMB review have been reflected in the docket for this action.

B. Paperwork Reduction Act (PRA)

This action does not impose any new information collection activities or burden subject to OMB review and approval under the PRA, 44 U.S.C. 3501 *et seq.* Burden is defined in 5 CFR 1320.3(b). OMB has previously approved the information collection activities contained in the existing regulations and associated burden under OMB Control No. 2070–0213 (EPA ICR No. 2599.02). An agency may not conduct or sponsor, and a person is not required to respond to a collection of information that requires OMB approval under PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register**, are listed in 40 CFR part 9, and included on the related collection instrument or form, if applicable.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA, 5 U.S.C. 601 *et seq.* In making this determination, EPA concludes that the impact of concern for this rule is any significant adverse economic impact on small entities, and the Agency is certifying that this rule will not have a significant economic impact on a substantial number of small entities because the rule relieves regulatory burden. This action would extend the compliance date for a prohibition on the processing and distributing in commerce of PIP (3:1) for use in certain articles and the processing and distributing in commerce of certain PIP (3:1)-containing articles, along with the associated recordkeeping requirements, from March 8, 2022, to October 31, 2024. EPA has therefore concluded that this action would relieve regulatory burden for all directly regulated small entities.

D. Unfunded Mandates Reform Act (UMRA)

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

E. Executive Order 13132: Federalism

This action does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

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

This action does not have tribal implications as specified in Executive Order 13175 (65 FR 67249, November 9, 2000) because it does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. Thus, Executive Order 13175 does not apply to this action.

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

This action is not a ''covered regulatory action'' under Executive Order 13045 (62 FR 19885, April 23, 1997) because it is not an economically significant regulatory action as defined by Executive Order 12866.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This is not a ''significant energy action'' as defined in Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not likely to have a significant adverse effect on the supply, distribution or use of energy and has not otherwise been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action.

I. National Technology Transfer and Advancement Act (NTTAA)

This action does not involve technical standards. As such, NTTAA section 12(d), 15 U.S.C. 272 note, does not apply to this action.

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

EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). As discussed in Unit II., this action is necessary to avoid widespread disruptions in the supply chains for a wide variety of essential goods and would not otherwise materially alter the final rule as published.

K. Congressional Review Act (CRA)

This action is subject to the CRA, 5 U.S.C. 801 *et seq.,* and EPA will submit a report containing this rule and other required information 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).

List of Subjects in 40 CFR Part 751

Environmental protection, Chemicals, Export notification, Hazardous substances, Import certification, Reporting and recordkeeping.

Michael S. Regan,

Administrator.

Therefore, for the reasons stated in the preamble, 40 CFR part 751 is amended as follows:

PART 751—REGULATION OF CERTAIN CHEMICAL SUBSTANCES AND MIXTURES UNDER SECTION 6 OF THE TOXIC SUBSTANCES CONTROL ACT

■ 1. The authority citation for part 751 continues to read as follows:

Authority: 15 U.S.C. 2605, 15 U.S.C. 2625(l)(4).

■ 2. Amend § 751.407:

■ a. In paragraphs (a)(2)(iii) and (d)(4) by removing ''March 8, 2022'' and adding ''October 31, 2024'' in its place; and

■ b. By revising paragraphs (e)(3)(i) through (iii).

The revisions read as follows:

§ 751.407 PIP (3:1).

* * * * *

(e) * * *

(3) * * *

(i) *SDS Section 1(c).* ''The Environmental Protection Agency prohibits processing and distribution of this chemical/product for any use other than: (1) In hydraulic fluids either for the aviation industry or to meet military specifications for safety and performance where no alternative chemical is available that meets U.S. Department of Defense specification requirements, (2) lubricants and greases, (3) New or replacement parts for motor and aerospace vehicles, (4) as an intermediate in the manufacture of cyanoacrylate glue, (5) In specialized engine air filters for locomotive and marine applications, (6) In adhesives and sealants before January 6, 2025, after which use in adhesives and sealants is prohibited, and (7) in other articles before October 31, 2024, after which use in articles other than new or replacement parts for motor and aerospace vehicles or specialized engine air filters for locomotive and marine applications is prohibited. In addition, all persons are prohibited from releasing PIP (3:1) to water during manufacturing, processing, and distribution in commerce, and must follow all existing regulations and best practices to prevent the release of PIP (3:1) to water during the commercial use of PIP (3:1).''; and

(ii) *SDS Section 15.* ''The Environmental Protection Agency prohibits processing and distribution of this chemical/product for any use other than: (1) In hydraulic fluids either for the aviation industry or to meet military specifications for safety and performance where no alternative chemical is available that meets U.S. Department of Defense specification requirements, (2) lubricants and greases, (3) new or replacement parts for motor and aerospace vehicles, (4) as an intermediate in the manufacture of cyanoacrylate glue, (5) In specialized engine air filters for locomotive and marine applications, (6) in adhesives and sealants before January 6, 2025, after which use in adhesives and sealants is prohibited, and (7) in other articles before October 31, 2024, after which use in articles other than new or replacement parts for motor and aerospace vehicles or specialized engine air filters for locomotive and marine applications is prohibited. In addition, all persons are prohibited from releasing PIP (3:1) to water during manufacturing, processing, and distribution in commerce, and must follow all existing regulations and best practices to prevent the release of PIP (3:1) to water during the commercial use of PIP (3:1).''; or

(iii) *Labeling.* ''The Environmental Protection Agency prohibits processing and distribution of this chemical/product for any use other than: (1) In hydraulic fluids either for the aviation industry or to meet military specifications for safety and performance where no alternative chemical is available that meets U.S. Department of Defense specification

requirements, (2) lubricants and greases, (3) new or replacement parts for motor and aerospace vehicles, (4) as an intermediate in the manufacture of cyanoacrylate glue, (5) In specialized engine air filters for locomotive and marine applications, (6) In adhesives and sealants before January 6, 2025, after which use in adhesives and sealants is prohibited, and (7) in other articles before October 31, 2024, after which use in articles other than new or replacement parts for motor and aerospace vehicles or specialized engine air filters for locomotive and marine applications is prohibited. In addition, all persons are prohibited from releasing PIP (3:1) to water during manufacturing, processing, and distribution in commerce, and must follow all existing regulations and best practices to prevent the release of PIP (3:1) to water during the commercial use of PIP (3:1).''

* * * * *

[FR Doc. 2022–04945 Filed 3–7–22; 8:45 am]

BILLING CODE 6560–50–P

Proposed Rules

Federal Register
Vol. 87, No. 45
Tuesday, March 8, 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.

POSTAL SERVICE

5 CFR Part 7001

RIN 3209–AA51

Supplemental Standards of Ethical Conduct for Employees of the United States Postal Service

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: The United States Postal Service (Postal Service), with the concurrence of the United States Office of Government Ethics (OGE), proposes to amend the Supplemental Standards of Ethical Conduct for Employees of the United States Postal Service by updating and refining outside employment and activity provisions (including prior approval requirements and prohibitions), by adding new requirements applicable to Postal Service Office of Inspector General (OIG) employees and Postal Service Governors, and by making limited technical and ministerial changes.

DATES: Submit comments on or before May 9, 2022.

ADDRESSES: Comments may be mailed or delivered to Jessica Brewster-Johnson, Senior Ethics Counsel, United States Postal Service, 475 L'Enfant Plaza SW, Washington, DC 20260–1101; or submitted to *supplemental.standards@usps.gov.* Faxed comments will not be accepted.

All written comments may be inspected and photocopied, by appointment only, at Postal Service Headquarters Library, 475 L'Enfant Plaza SW, 11th Floor North, Washington, DC. These records will be available for review Monday through Friday, 9 a.m.–4 p.m., by calling 202–268–2906. All submitted comments and attachments are part of the public record and subject to disclosure. Do not enclose any material in your comments that you consider to be confidential or inappropriate for public disclosure.

FOR FURTHER INFORMATION CONTACT: Jessica Brewster-Johnson, Senior Ethics Counsel, United States Postal Service, 475 L'Enfant Plaza SW, Washington, DC 20260–1101, 202–268–6936.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to the Ethics in Government Act of 1978, as amended, and other legal authority, OGE published new Standards of Ethical Conduct for Employees of the Executive Branch (Standards) on August 7, 1992, which were codified in 5 CFR part 2635. See 57 FR 35006–35067, as corrected at 57 FR 48557 and 52583, with additional grace-period extensions at 59 FR 4779–4780 and 60 FR 6390–6391. The Standards, which became effective on February 3, 1993, set uniform ethical conduct standards applicable to all executive branch personnel.

Under 5 CFR 2635.105, agencies may issue, with OGE's concurrence, agency-specific regulations that supplement the Standards when the agency determines that such supplemental regulations are necessary and appropriate, in view of its programs and operations, to fulfill the purposes of the Standards. Under 5 CFR 2635.802(a), agencies are authorized to issue supplemental regulations prohibiting employees from engaging in outside employment or other outside activities that conflict with their official duties. Under 5 CFR 2635.803, agencies are authorized to issue supplemental regulations requiring employees to obtain prior approval before they engage in outside employment or other outside activities.

On September 11, 1995, the Postal Service issued, with OGE's concurrence, the Supplemental Standards of Ethical Conduct for Employees of the United States Postal Service (Supplemental Standards), which were codified in 5 CFR part 7001. See 60 FR 47240–47241. The Supplemental Standards prohibit employees from engaging in certain outside employment or business activities and require prior approval for employees to engage in other outside employment or business activities.

The Postal Service has now determined that amendment of the Supplemental Standards is needed for the reasons explained below.

II. Explanation of Changes

A. Amendment of § 7001.102(a)(1) To Modify the Restrictions on Employees' Outside Employment or Business Activities With or for Manufacturers of Uniforms or Other Postal-Required Products

Section 7001.102(a)(1)(i) of the Supplemental Standards currently prohibits employees from engaging in outside employment or business activities with or for persons, including the employees themselves, engaged in the manufacture of any uniform, or other product required by the Postal Service for use by its employees or customers (''other postal-required products''). The Postal Service proposes to eliminate this prohibition.

In connection with the issuance of the Supplemental Standards, the Postal Service discussed the reason for the current prohibition in § 7001.102(a)(1)(i). See 60 FR 15700. The Postal Service explained that the involvement of employees in the outside employment and business activities covered by that provision could cause members of the public to question the impartiality and objectivity with which postal programs are administered because it could create the appearance that the employees, or persons they represent or with whom they are otherwise affiliated, are in a position to benefit from knowledge or influence gained by the employees through their official positions.

The Postal Service has now concluded that the prohibition in § 7001.102(a)(1)(i) is unduly restrictive. The Postal Service has determined that the impartiality and objectivity concerns raised in connection with the initial issuance of the Supplemental Standards may adequately be addressed without outright prohibiting the sizeable postal workforce (many of whom are part-time employees) from engaging in the outside employment or business activities covered by § 7001.102(a)(1)(i). In making this determination, the Postal Service has considered that its experience since the initial issuance of the Supplemental Standards has been that employees' outside employment or business activities with or for manufacturers of uniforms or other postal-required products would in many cases not cause members of the public to question the impartiality and

objectivity with which postal programs are administered. This is because uniform programs are administered by a discrete postal headquarters organization and are not affected by employees outside that organization, and other postal-required products are similarly administered.

With the elimination of the prohibition in § 7001.102(a)(1)(i), employees will be required to obtain approval from the Postal Service's Ethics Office prior to engaging in outside employment or business activities with or for manufacturers of uniforms or other postal-required products in situations covered by the existing prior-approval process in § 7001.102(b), as revised in these amendments of the Supplemental Standards. Those situations include the following ones in which impartiality and objectivity concerns are most likely to arise in the Postal Service's experience:

(1) The employee has official dealings with the manufacturer on behalf of the Postal Service (§ 7001.102(b)(1)(i)); or

(2) the manufacturer has interests that are substantially dependent upon providing goods or services to, or for use in connection with, the Postal Service (§ 7001.102(b)(1)(ii)(B)).

These situations requiring prior approval would encompass those employees working in the discrete organizations responsible for uniform programs and other postal-required products for whom impartiality and objectivity concerns might be heightened. The review by the Postal Service's Ethics Office under the prior-approval process can be expected to identify and address those employment or business relationships that would present ethical conduct concerns under 5 CFR part 2635 because of the employee's official duties and the manufacturer's interests.

However, regardless of the prior-approval process described above, postal employees will continue to be prohibited from acting as agent, with or without compensation, for any postal contractor for uniforms or other postal-required products, or person offering to become such a contractor. The criminal statute codified at 18 U.S.C. 440 makes it unlawful for postal employees to act as agent, with or without compensation, for any contractor or person offering to become a contractor in any business before the Postal Service. This provision is currently incorporated in § 7001.103 of the Supplemental Standards.

Postal employees will also continue to be prohibited from engaging in certain specified outside employment or business activities with postal contractors for uniforms or other postal-required products. As explained in further detail below, renumbered § 7001.102(a)(1) of the Supplemental Standards prohibits employees from engaging in outside employment or business activities that involve providing consultation, advice, or any subcontracting service, with respect to postal operations, programs, or procedures, to any person who has a contract with the Postal Service or who the employee has reason to believe will compete for such a contract.

B. Amendment of § 7001.102(a)(1) and (b)(1) To Modify the Restrictions on Employees' Outside Employment or Business Activities With or for HCR Contractors

The Postal Reorganization Act, as amended, codified at 39 U.S.C. 5005, authorizes the Postal Service to contract for the surface transportation of mail. The Postal Service enters into Highway Contract Route (HCR) contracts under that statute.

Section 7001.102(a)(1)(ii) of the Supplemental Standards currently prohibits employees from engaging in outside employment or business activities with or for persons, including the employees themselves, engaged in the transportation of mail under Postal Service (HCR) contract to or from the postal facility at which the employee works or to or from a postal facility within the delivery area of a post office in which the employee works (''transportation area criteria''). The Postal Service proposes to eliminate this prohibition and replace it with a provision requiring employees to obtain approval from the Postal Service's Ethics Office prior to engaging in outside employment or business activities with or for any HCR contractor, which will be accomplished by amending § 7001.102(b)(1).

In connection with the issuance of the Supplemental Standards, the Postal Service discussed the reason for the current prohibition in § 7001.102(a)(1)(ii). See 60 FR 15700–15701. The Postal Service explained that any outside employment involving the delivery of mail at or near an employee's workplace, without regard to the nature of the employee's duties, might lead reasonable persons to be concerned that the employee's outside employer was receiving preferential treatment from the Postal Service. *Id.* The Postal Service has now concluded that the prohibition in § 7001.102(a)(1)(ii) is both unduly restrictive and too narrowly focused to address conflicts and impartiality concerns adequately. Specifically, the Postal Service has determined that preferential treatment concerns regarding employees engaging in outside employment or business activities with or for persons engaged in the transportation of mail under HCR contract could occur whether or not such outside employment or business activities meet the transportation area criteria described in the current § 7001.102(a)(1)(ii). These concerns, however, may be sufficiently addressed through a prior-approval process without outright prohibiting the sizeable postal workforce (many of whom are part-time employees) from engaging in such outside employment or business activities.

Section 7001.102(b) of the Supplemental Standards currently governs the requirements for employees to obtain prior approval to engage in outside employment or business activities with or for certain categories of persons. The Postal Service proposes to amend § 7001.102(b)(1) to add a provision at § 7001.102(b)(1)(iii) requiring employees to obtain prior approval from the Postal Service's Ethics Office to engage in outside employment or business activities with or for any HCR contractor. This prior-approval requirement is not limited to situations covered by the existing prior-approval process in § 7001.102(b), as revised in these amendments of the Supplemental Standards, which is the case when employees wish to engage in outside employment or business activities with or for manufacturers of uniforms or other postal-required products as discussed above. Rather, this prior approval requirement applies in any circumstance in which employees desire to engage in outside employment or business activities with or for any HCR contractor. This difference is due to the greater impact on the Postal Service of its many HCR contracts nationwide as compared to uniform programs or programs for other postal-required products. The procedure for requesting, and the standard for granting, approval to engage in outside employment or business activities with or for an HCR contractor will be the same as that which exists for requesting and granting approval for other types of outside employment and business activities for which prior approval is required under § 7001.102(b). The review by the Postal Service's Ethics Office under this prior-approval process can be expected to identify and address those employment or business relationships that would present ethical conduct concerns under 5 CFR part 2635 because of the employee's official

duties and the HCR contractor's interests.

As discussed above in the context of outside employment and business activities with or for certain manufacturers, other provisions of the Supplemental Standards will continue to restrict certain activities with respect to HCR contractors. Specifically, renumbered § 7001.102(a)(1) will continue to prohibit employee outside activities that involve providing consultation, advice, or any subcontracting service to a HCR contractor or person offering to become such a contractor, and 18 U.S.C. 440, as incorporated in § 7001.103 of the Supplemental Standards, continues to prohibit employees from acting as agents for any HCR contractor, or person offering to become such a contractor.

C. Amendments to § 7001.102(a) Relating to Outside Employment or Business Activities

The removal of current § 7001.102(a)(1)(i) and (ii), described above, will result in the renumbering of the restrictions found at current § 7001.102(a)(1)(iii) and (iv). To provide additional clarity, the Postal Service proposes to revise the language of these remaining restrictions. First, the Postal Service is modifying the language of current § 7001.102(a)(1)(iii), which prohibits employees from ''engag[ing] in outside employment or business activities with or for persons, including oneself, engaged in: Providing consultation, advice, or any subcontracting service, with respect to the operations, programs or procedures of the Postal Service, to any person who has a contract with the Postal Service or who the employee has reason to believe will compete for such a contract.'' The Postal Service stated that its original intent with this provision was to prohibit employees from providing ''consultation, advice, or any subcontracting service,'' but also noted that ''an employee would not be prohibited from consulting with a business that happens to hold a Postal Service contract when the employee's consulting work is not related to that contract and does not have any other postal connection.'' 60 FR 15701. In other words, the prohibition is focused on, and has been consistently applied by the Postal Service to, the outside activity of the *employee,* not the activity of the outside *employer.* As currently written, the § 7001.102(a)(1)(iii) prohibition could be read to cover both the employee and the outside employer because of the introductory phrasing ''with or for a person, including oneself.'' In order to more clearly state that the prohibition is tied to the type of work the employee will do for an outside employer or on their own, the Postal Service proposes to modify this language in the restriction, found at renumbered § 7001.102(a)(1), to state that an employee cannot engage in outside employment or business activities ''that involve providing'' certain consultation, advice, or subcontracting services.

Second, the Postal Service has revised current § 7001.102(a)(1)(iv) by separating the two distinct prohibitions contained therein: (1) The operation of a commercial mail receiving agency and (2) the delivery outside the mails of any type of mailable matter, except daily newspapers. These prohibitions, now at renumbered § 7001.102(a)(2), include revised language to more clearly state that an employee is prohibited from engaging in outside employment or business activities ''with, for, or as a person engaged in'' the activity; for consistency, related language in the prior approval section at § 7001.102(b)(1)(ii) has similarly been updated. No substantive change is intended.

D. Amendment of § 7001.102 Relating to Outside Employment or Business Activities With Certain Subsidiaries

As described above, current § 7001.102(a)(1)(iv) (renumbered as § 7001.102(a)(2)) prohibits employees from engaging in outside employment or business activities with, for, or as persons engaged in certain categories of activities. The Supplemental Standards do not currently include a definition of ''person.'' Therefore, the definition of that term set forth in the Standards (5 CFR 2635.102(k)) applies to the Supplemental Standards. That definition provides that a ''person'' includes, among others, a corporation and each subsidiary it controls (''corporate subsidiary provision''). Consequently, when a corporation is engaged in an activity covered by renumbered § 7001.102(a)(2), employees are not only currently prohibited from engaging in outside employment or business activities with or for the corporation, but also with or for a subsidiary, regardless of whether the subsidiary is also engaged in a covered activity. For the reasons discussed below, the Postal Service proposes to add a provision to § 7001.102(b) that would permit an employee to request approval to engage in outside employment or business activities with certain subsidiaries of entities engaged in activities covered by renumbered § 7001.102(a)(2).

In connection with the initial issuance of the Supplemental Standards, the Postal Service discussed the reasons for the outside activity prohibitions in § 7001.102(a). See 60 FR 15700–15702. The Postal Service explained that reasons for the prohibitions included that covered outside employment and business activities could lead members of the public to be concerned that the employees were using knowledge or influence gained through their official positions to benefit their outside employers or business associates, or might lead members of the public to question the employees' loyalty to the Postal Service, thereby undermining public confidence in the integrity of postal operations.

The Postal Service has now concluded that application of the corporate subsidiary provision to the proposed amended § 7001.102(a)(2) would be unduly restrictive in circumstances in which a corporation is engaged in a covered activity, but a subsidiary with which an employee desires to engage in employment or business activities is not. The Postal Service has determined that the concerns raised in connection with the initial issuance of the Supplemental Standards are oftentimes not present when an employee would like to engage in business activities with or for a company that is not engaged in any of the activities outlined in § 7001.102(a)(2), but happens to be the subsidiary of a company engaged in such activities. In making this determination, the Postal Service no longer considers there to be a divided loyalty question with an employee who would like to work for a subsidiary that is not engaged in the activities outlined in § 7001.102(a)(2), even though the parent corporation is engaged in such activities. This is because the focus of § 7001.102(a)(2) is on the business activities of the subsidiary itself. When a subsidiary engages in a wholly separate line of trade than its parent corporation, the Postal Service is not concerned with the subsidiary's line of trade if that line of trade does not fall under the ambit of § 7001.102(a)(2).

In order to mitigate the undue restrictiveness of renumbered § 7001.102(a)(2), the Postal Service proposes to add a subsection, § 7001.102(b)(2), that provides an exception for certain subsidiaries. This provision provides that an employee who wishes to engage in outside employment or activities with an entity that does not itself engage in the activities outlined in § 7001.102(a)(2), but is the subsidiary of an entity that

engages in those activities, should follow the prior approval process laid out in § 7001.102(b)(3). Approval would allow the employee to engage in outside employment or activity with a subsidiary that would otherwise be restricted by renumbered § 7001.102(a)(2) because of the corporate subsidiary provision. For example, Employee A would like to get a second job as a delivery driver for Amazon Logistics. Employee B would like to earn money on the video streaming website Twitch. Both Amazon Logistics and Twitch are subsidiaries of Amazon. Employee A is prohibited from working for Amazon Logistics because that subsidiary delivers mailable matter outside of the mail, and § 7001.102(b)(2) does not contemplate that approval can be granted for this type of subsidiary employment. However, Employee B may request prior approval to earn money on the website Twitch because that subsidiary is engaged in creating digital media content, which is not prohibited under § 7001.102(a)(2). An example has been added to this subsection identifying a scenario in which an employee may request prior approval for outside employment with a subsidiary.

E. Amendment of § 7001.102(a)(2) To Modify the Activities in Which Employees Are Prohibited From Engaging While on Duty, in Uniform, at Any Postal Facility, or Using Postal Equipment

Section 7001.102(a)(2) of the Supplemental Standards currently prohibits employees from engaging in any sales activity, including the solicitation of business or the receipt of orders, for themselves or any other persons while on duty or in uniform, or at any postal facility. The Postal Service proposes to amend this provision, now at renumbered § 7001.102(a)(3), to add a prohibition on using postal equipment to engage in such sales activity. The Postal Service additionally proposes to amend this provision to also prohibit employees from engaging in fundraising (as defined in the Standards) or for-profit business activities for themselves or any other persons while on duty, in uniform, at any postal facility, or using any postal equipment (but not including fundraising at a postal facility as permitted in connection with the Combined Federal Campaign (CFC) under 5 CFR part 950). The added reference to fundraising is intended to highlight an existing restriction in the Standards (see 5 CFR 2635.808), and to improve clarity and reduce confusion for employees. It is not intended to create a separate, new restriction. Examples have been added to § 7001.102(a)(3) demonstrating these prohibitions.

The Postal Service often encounters situations in which employees who are involved in outside sales activities engage in those activities while on duty, in uniform, on postal property, and/or using postal equipment. The Postal Service has routinely found that by engaging in those activities while on duty, in uniform, on postal property, and/or using postal equipment, the employees violate the misuse of public office for private gain, misuse of Government property, and/or misuse of official time provisions of the Standards (5 CFR part 2635, subpart G).

The Standards define ''fundraising'' to include, among other things, the raising of funds for a nonprofit organization, other than a political organization as defined in 26 U.S.C. 527(e), through the solicitation of funds or sale of items. See 5 CFR 2635.808(a)(1)(i). The Postal Service often encounters situations in which employees who are involved in outside fundraising as defined in the Standards or for-profit business activities engage in those activities while on duty, in uniform, on postal property, and/or using postal equipment. The Postal Service has routinely found that by engaging in those activities while on duty, in uniform, on postal property, and/or using postal equipment, the employees violate the misuse of public office for private gain, misuse of Government property, and/or misuse of official time provisions of the Standards (5 CFR part 2635, subpart G).

In addition, the Postal Service's Conduct on Postal Property (COPP) regulations prohibit, with some exceptions, any person entering in or on property under the charge and control of the Postal Service from soliciting alms or contributions, or soliciting or vending for commercial purposes. See 39 CFR 232.1(a), (h)(1). The Postal Service has also routinely found that by engaging in outside sales activities, outside fundraising as defined in the Standards, or for-profit business activities on postal property, employees violate those COPP regulations.

In consideration of all these factors, the Postal Service wishes to explicitly incorporate in the Supplemental Standards a restriction on engaging in these activities.

F. Amendment of § 7001.102 To Provide for the Requirements for OIG Employees To Report and/or Obtain Prior Approval To Engage in Outside Employment or Business Activities

The Postal Service proposes to amend § 7001.102 to add a provision at § 7001.102(c) providing for the requirements for when OIG employees must report or obtain prior approval to engage in outside employment or business activities. The amendment of § 7001.102 will result in the current definitions located at § 7001.102(c) being renumbered to § 7001.102(d).

The proposed amendment requires all OIG employees to provide notice to, and OIG Special Agents and Criminal Investigators to obtain approval from, the OIG's Office of General Counsel before engaging in compensated or uncompensated outside employment or business activities, including:

(1) Any knowing sale or lease of real estate to the Postal Service or to a Postal Service employee or contractor, regardless of the frequency of such sales or leases or whether the sale or lease is at fair market value;

(2) any ownership or control of a publicly-accessible online or physical storefront; and

(3) volunteer activities, if they regularly exceed 20 hours per week or when the employee holds an officer position in the organization.

Employees' outside employment or business activities may not interfere with their ability or availability to perform OIG duties. The OIG's Office of General Counsel will analyze the reports of employees engaged in outside employment or business activities to ensure that they are warned of potential conflicts of interest or loss of impartiality. Reporting these types of outside activities is necessary for OIG employees (as opposed to regular Postal Service employees) due to the nature of the OIG's work and the OIG's desire to avoid even the appearance of impropriety. As an oversight entity, the OIG strives to maintain an elevated standard of conduct that serves as an example to its Postal Service colleagues. The OIG's reputation is of paramount importance in its relationship with the Postal Service, Congress, and other stakeholders. Accordingly, outside financial entanglements that could impact the impartiality of OIG agents and auditors are of particular concern, including the following:

1. Real Estate

Employees must report the knowing sale or lease of real estate to the Postal Service or to a Postal Service employee

or contractor due to the high risk of a conflict of interest or loss of impartiality inherent in such a large (in the case of a sale) or ongoing (in the case of a lease) financial transaction. For example, an audit manager who leases land to the entity he or she is auditing is likely to have actual or apparent independence concerns that would interfere with his or her duties.

2. Commercial Business

Because virtual businesses can be accessed at any time, including during employees' official work hours, employees who have ownership or control of publicly-accessible online storefronts will be advised that they are prohibited from using Government resources, including property, or time to conduct their outside businesses. The Postal Service has no de minimis exception for using Government resources or time to conduct outside employment or business activities. In the case of ownership or control of physical storefronts, the same prohibition on using Government resources or time applies.

3. Volunteer Activities

Limited volunteer activities seldom pose a significant risk of violating 18 U.S.C. 208 or 5 CFR 2635.502. However, regular volunteer work of more than 20 hours per week or holding an officer position within an outside organization must be reported to ensure that employees' close relationships to the outside entities would not cause a reasonable person to question the employees' impartiality. Accordingly, employees who engage in volunteer work may not use Government resources or time, including—per Postal Service policy—sick leave, to engage in their volunteer work and may not participate personally and substantially in OIG particular matters that would directly and predictably affect the organization with which they volunteer. USPS OIG believes that an OIG employee's participation in those matters would cause a reasonable person to question the OIG employee's impartiality in the matter. See 5 CFR 2635.502. Two examples have been provided in § 7001.102(c)(1) regarding the reporting of volunteer activities. Employees may submit questions about reporting of volunteer activities to the OIG's Office of General Counsel.

4. Law Enforcement Officer Approval Requirement

Law Enforcement Officer involvement in outside employment or business activities can pose additional challenges that must be coordinated with OIG management and legal counsel to ensure that the Law Enforcement Availability Pay (LEAP) requirements of 5 U.S.C. 5545a and 5 CFR 550.181 through 550.186 can be balanced against the outside activity. The Postal Service proposes to add new § 7001.102(c)(2) to require that such individuals in the OIG—Special Investigators and Criminal Investigators—obtain prior approval for the outside activities enumerated in § 7001.102(c)(1). For these employees, their outside employment and business activities often draw upon their OIG law enforcement training and experience, requiring them to carry firearms, which creates liability and safety concerns. In addition, the OIG must ensure that Special Agents and Criminal Investigators are available to carry out their law enforcement duties during exigent circumstances. Special Agents receive LEAP and are required to be available 50 hours per week. A conflict of interest review must be conducted to ensure that Special Agents are aware of these potential liability issues and duty requirements that are particular to their law enforcement profession. Non-investigators do not have LEAP requirements or potential firearm liability issues because they are not required to carry firearms as part of their OIG duties. Accordingly, the proposed amendment imposes the additional requirement that Special Agents and Criminal Investigators request and obtain written approval prior to engaging in outside employment or business activities which they are required to report under the proposed amendment.

G. Amendment of § 7001.102 To Revise and Add Definitions

Section 7001.102(c) of the Supplemental Standards, which will be renumbered to § 7001.102(d), currently provides definitions of certain terms used in § 7001.102. The Postal Service proposes to amend this section as follows to include new definitions, which will result in the renumbering of existing definitions in this section:

1. Commercial Mail Receiving Agency

Current § 7001.102(a)(1), proposed to be renumbered to § 7001.102(a)(2)(i), prohibits employees from engaging in outside employment or business activities with or for persons engaged in the operation of a commercial mail receiving agency registered with the Postal Service. The Supplemental Standards do not currently include a definition of a ''commercial mail receiving agency.'' The Postal Service proposes to amend the definitions section of § 7001.102 to define a ''commercial mail receiving agency'' as a private business that acts as the mail receiving agent for specific clients, and explain that the business must be registered with the post office responsible for delivery to the commercial mail receiving agency.

2. A Person Engaged in the Delivery Outside the Mails of Any Type of Mailable Matter

Section 7001.102(a)(1), proposed to be renumbered to § 7001.102(a)(2)(ii), currently prohibits employees from engaging in outside employment or business activities with or for persons engaged in the delivery outside the mails of any type of mailable matter, except daily newspapers. The Supplemental Standards do not currently include a definition of ''a person engaged in the delivery outside the mails of mailable matter.'' The Postal Service has found that employees are at times uncertain as to which of the different types of non-postal delivery services current § 7001.102(a)(1) applies.

The Postal Service proposes to amend the definitions section of § 7001.102 to define ''a person engaged in the delivery outside the mails of any type of mailable matter'' as a person who is engaged in the delivery outside the mails of any letter, card, flat, or parcel eligible to be accepted for delivery by the Postal Service. An example has been added to renumbered § 7001.102(a)(2)(ii) identifying four global companies that currently qualify as ''a person engaged in the delivery outside the mails of any type of mailable matter, except daily newspapers'' (*i.e.,* United Parcel Service (UPS), Federal Express (FedEx), Amazon, and DHL). Other businesses exist that qualify as such a person, including but not limited to, regional companies that deliver mailable matter that is not daily newspapers.

3. A Person Having Interests Substantially Dependent Upon, or Potentially Affected to a Significant Degree by, Postal Rates, Fees, or Classifications

Section 7001.102(b) currently requires employees to obtain prior approval to engage in outside employment or business activities with or for persons whose interests are substantially dependent upon, or potentially affected to a significant degree by, postal rates, fees, or classifications. The definitions section of § 7001.102 currently defines ''a person having interests substantially dependent upon, or potentially affected to a significant degree by, postal rates, fees, or classifications'' to include, among other persons, a person who is

engaged in a business that depends substantially upon the mails for the solicitation or receipt of orders for, or the delivery of, goods or services.

The Postal Service proposes to amend this definition to clarify the employees who qualify in the current e-commerce environment as a person engaged in a business that depends substantially upon the mails for the delivery of goods or services (''a person engaged in a mail delivery-dependent business''). Since the initial issuance of the Supplemental Standards in 1995, the internet has come to provide a new avenue for the sale of goods and services to the public, including by persons who did not previously engage in sales activity, with many of those items shipped to purchasers using the Postal Service. The Postal Service does not intend that employees will qualify as a person engaged in a mail delivery-dependent business unless they operate a commercial business that utilizes the Postal Service as its primary shipper and can be expected to earn gross revenue exceeding $10,000 from utilizing the mails in its current fiscal year.

The Postal Service proposes to remove the reference in this definition to ''a person who is engaged in a business that depends substantially upon the mails for the solicitation or receipt of orders for, or the delivery of, goods or services'' and replace it with reference to a person who is engaged in a commercial business that:

(1) Primarily utilizes the mails for the solicitation or receipt of orders for, or the delivery of, goods or services; and

(2) can be expected to earn gross revenue exceeding $10,000 from utilizing the mails during the business's current fiscal year.

If it was reasonable to have expected that a business would not exceed the $10,000 threshold during its fiscal year, a person will not meet the proposed definition if the business in fact exceeds the threshold at the end of the fiscal year. However, this fact must be taken into account when determining whether the business can be expected to exceed the threshold in its subsequent fiscal year.

In addition, examples have been added to this definition of persons who are and are not engaged in a mail delivery-dependent business in the e-commerce environment.

4. Second-Class Rates of Postage Reference and Postal Rate Commission Reference

The Postal Service also proposes to amend the definition of ''a person having interests substantially dependent upon, or potentially affected to a significant degree by, postal rates, fees, or classifications'' in § 7001.102 to change the reference in that provision from ''a publication mailed at second-class rates of postage'' to ''a publication mailed at Periodicals rates of postage.'' As part of revisions to the Domestic Mail Classification Schedule (the predecessor to the current Mail Classification Schedule), second-class mail was renamed Periodicals. See 61 FR 10068, 10114, 10123–24. In addition, the Postal Service proposes to amend the definition of ''a person having interests substantially dependent upon, or potentially affected to a significant degree by, postal rates, fees, or classifications'' in § 7001.102 to change the reference in that provision from ''Postal Rate Commission'' to ''Postal Regulatory Commission.'' The Postal Enhancement and Accountability Act redesignated the Postal Rate Commission as the Postal Regulatory Commission. See Public Law 109–435, Title VI, § 604, 120 Stat. 3198, 3241–42 (2006).

5. A Person Having Interests Substantially Dependent Upon Providing Goods or Services to, or for Use in Connection With, the Postal Service

Section 7001.102(b) currently requires employees to obtain prior approval to engage in outside employment or business activities with or for persons whose interests are substantially dependent upon providing goods or services to, or for use in connection with, the Postal Service. The definitions section of § 7001.102 currently defines ''a person having interests substantially dependent upon providing goods or services to, or for use in connection with, the Postal Service'' to include, among other persons, a person who provides goods or services under contract with the Postal Service that:

(1) Can be expected to provide revenue exceeding $100,000 over the term of the contract; and

(2) provides 5% or more of the person's gross income for the person's current fiscal year.

The Postal Service proposes to amend this definition to clarify that a person who holds more than one contract with the Postal Service to provide goods or services to, or for use in connection with, the Postal Service meets the ''revenue exceeding $100,000'' criteria in paragraph (1) above if the person's contracts in total can be expected to provide revenue exceeding $100,000 over the terms of the contracts.

The Postal Service additionally proposes to amend this definition to remove the ''5% of gross income'' criteria in paragraph (2) above. The Postal Service's experience has been that in many cases it does not have access to information that would indicate whether a contract to provide goods or services to, or for use in connection with, the Postal Service provides 5% or more of the contractor's gross income for the contractor's current fiscal year.

Section 7001.102 also currently defines ''a person having interests substantially dependent upon providing goods or services to, or for use in connection with, the Postal Service'' to include a person substantially engaged in the business of preparing items for others for mailing through the Postal Service. An example has been added to renumbered § 7001.102(d)(5) of such a person.

H. Amendment of Part 7001 To Prohibit the Governors From Having or Controlling Certain Financial Interests

The Postal Service's organizational structure includes nine Governors, who are appointed by the President and confirmed by the Senate. See 39 U.S.C. 202(a). The nine Governors, along with the Postmaster General and Deputy Postmaster General, constitute the Board of Governors. See 39 U.S.C. 202(a), (c), (d). The Board of Governors directs the exercise of the powers of the Postal Service, directs and controls postal expenditures, reviews postal practices and policies, and performs other functions and duties as prescribed by the Postal Reorganization Act, as amended, codified in 39 U.S.C. See 39 U.S.C. 202(a), 205(a). In addition, certain matters are reserved for decision by the nine Governors. See 39 CFR 3.4.

On occasion, Postal Service Governors may be called upon to act upon postal matters that would have a direct and predictable effect on the financial interests of a postal competitor or postal lessor. In those cases, such involvement would be prohibited by the criminal conflict of laws (18 U.S.C. 208) to the extent that a Governor (or a person or entity whose interests are imputed to the Governor) has a financial interest in the postal competitor or postal lessor. Recognizing that this is not the case for all postal matters, the Postal Service proposes to amend Part 7001 to nevertheless prohibit Governors, their spouses, and minor children from directly or indirectly holding financial interests in postal competitors or publicly-traded postal lessors, and Governors from actively controlling the acquisition or holding of financial interests in postal competitors or publicly-traded postal lessors on behalf

of any entity, because doing so would cause an appearance of a lack of impartiality or objectivity with which postal programs are administered.

The Postal Service proposes to amend Part 7001 of the Supplemental Standards to include new § 7001.104 regarding prohibited financial interests of the Governors as follows:

1. Financial Interest in a Postal Competitor

The Postal Service proposes to add a provision at § 7001.104(a)(1)(i) prohibiting Postal Service Governors, their spouses, and minor children from directly or indirectly acquiring or holding any financial interest in a person engaged in the delivery outside the mails of any type of mailable matter, except daily newspapers (''postal competitor''), with some exceptions. Pursuant to § 7001.104(a)(2), Postal Service Governors also would be prohibited from actively controlling the acquisition of or the holding of any financial interest in a postal competitor on behalf of an entity whose financial interests are imputed to the Governor under 18 U.S.C. 208. A Governor actively controls the acquisition or holding of financial interests on behalf of an entity if he or she selects or dictates the entity's investments, such as stocks, bonds, commodities, or funds. A Governor does not actively control the acquisition or holding of financial interests on behalf of an entity if he or she merely directs the investment strategy of the entity, hires the entity's financial manager(s) who selects the entity's investments, or designates another employee of the entity to select the entity's investments. A Governor may have such investment authority when serving as an officer, director, trustee, general partner, or employee of an entity. Examples have been provided of when a Governor does and does not actively control the acquisition or holding of financial interests on behalf of an entity.

While the Postal Service is an independent establishment of the executive branch of the Government of the United States, its mission includes the provision to the public for a fee of services for which it has private sector competitors, *i.e.,* private businesses engaged in the delivery outside the mails of mailable matter, including but not limited to, United Parcel Service (UPS), Federal Express (FedEx), Amazon, and DHL. This definition of ''a person engaged in the delivery outside the mails of any type of mailable matter'' is the same definition of that term that is included in the definitions section of § 7001.102 applicable to the prohibition on employees engaging in outside employment or business activities with or for such persons.

The purpose of the proposed amendment is to avoid even the appearance of impropriety that may be created by a Governor or his or her spouse or minor child holding a financial interest in a postal competitor, or a Governor actively controlling the acquisition or holding of a financial interest in a postal competitor on behalf of an entity whose financial interests are imputed to the Governor under the criminal conflict of interest laws (18 U.S.C. 208). A Governor or his or her spouse or minor child holding such a financial interest might lead members of the public to question the Governor's loyalty to the Postal Service, thereby undermining public confidence in the integrity of postal operations. Likewise, members of the public might question the Governor's loyalty to the Postal Service if an entity whose financial interests are treated as his or her own, and for which the Governor actively controls investment decisions, has a financial interest in a postal competitor. These concerns are not presented by a Governor or his or her spouse or minor child holding a financial interest in a private business engaged in the delivery of daily newspapers, or a Governor actively controlling a financial interest in such a private business on behalf of an entity, which are not prohibited.

2. Financial Interest in a Publicly-Traded Postal Lessor

The Postal Service proposes to add a provision at § 7001.104(a)(1)(ii) prohibiting Postal Service Governors, their spouses, and minor children from directly or indirectly acquiring or holding any financial interest in a publicly-traded entity engaged primarily in the business of leasing real property to the Postal Service (''postal lessor''), with some exceptions. Pursuant to § 7001.104(a)(2), Postal Service Governors also would be prohibited from actively controlling the acquisition of or the holding of any financial interest in a postal lessor on behalf of an entity whose financial interests are imputed to the Governor under 18 U.S.C. 208. A Governor actively controls the acquisition or holding of financial interests on behalf of an entity if he or she selects or dictates the entity's investments, such as stocks, bonds, commodities, or funds. A Governor does not actively control the acquisition or holding of financial interests on behalf of an entity if he or she merely directs the investment strategy of the entity, hires the entity's financial manager(s) who selects the entity's investments, or designates another employee of the entity to select the entity's investments. A Governor may have such investment authority when serving as an officer, director, trustee, general partner, or employee of an entity. Examples have been provided of when a Governor does and does not actively control the acquisition or holding of financial interests on behalf of an entity.

In order to accomplish its mission of providing adequate and efficient postal services nationwide, the Postal Service maintains retail (*i.e.,* post offices) and other facilities across the country. In most cases, the Postal Service leases, rather than owns, the real property where its facilities are located.

The Postal Service's lease agreements are mainly with non-governmental lessors, including, at present, one publicly-traded entity engaged primarily in the business of leasing real property to the Postal Service. While the interests of such an entity are at times aligned with the Postal Service's interests, it also has interests that do or may conflict with the Postal Service's interests, such as the terms of the lease agreement and how those terms are implemented.

The purpose of the proposed amendment is to avoid even the appearance of impropriety that may be created by a Governor or his or her spouse or minor child holding a financial interest in a postal lessor, or a Governor actively controlling the acquisition or holding of a financial interest in a postal lessor on behalf of an entity whose financial interests are imputed to the Governor under the criminal conflict of interest laws (18 U.S.C. 208). A Governor or his or her spouse or minor child having such a financial interest might lead members of the public to question the Governor's loyalty to the Postal Service, thereby undermining public confidence in the integrity of postal operations, including the postal real estate leasing program. Likewise, members of the public might question the Governor's loyalty to the Postal Service if an entity whose financial interests are treated as his or her own, and for which the Governor actively controls investment decisions, has a financial interest in a postal lessor.

3. Exceptions, Time Limits, Disqualifications, and Waivers

Under an exception to the proposed prohibitions at § 7001.104(b), Governors, their spouses, and minor children are not prohibited from directly or indirectly acquiring or holding, and Governors are not prohibited from actively controlling on behalf of any entity, any financial interest in any publicly-traded or

publicly-available mutual fund (as defined in 5 CFR 2640.102(k)) or other collective investment fund, including a widely-held pension or other retirement fund, that includes any financial interest in a postal competitor or postal lessor described in the proposed amendment, so long as certain conditions are met.

The proposed amendment also provides in proposed § 7001.104(c) the time limit by which any financial interest in a postal competitor or postal lessor prohibited by the proposed amendment generally must be divested, as well as the time limits for reporting and divesting the following:

(1) A financial interest directly or indirectly held by a Governor or his or her spouse or minor child, or a financial interest actively controlled by a Governor on behalf of any entity, that becomes prohibited subsequent to the Governor's confirmation;

(2) a financial interest in a postal competitor or postal lessor described in the proposed amendment that was acquired by the Governor or his or her spouse or minor child without specific intent (such as through marriage, inheritance, or gift) subsequent to the Governor's confirmation; and

(3) a financial interest in a postal competitor or postal lessor described in the proposed amendment that was acquired by an entity whose financial interests are actively controlled by a Governor without specific intent (such as through a gift) subsequent to the Governor's confirmation.

The proposed amendment further provides that pending any required divestiture of a prohibited financial interest provided for in the proposed amendment, a Governor must disqualify himself or herself from participating in particular matters involving or affecting the prohibited financial interest, and that disqualification is accomplished by not participating in the particular matter.

The proposed amendment at § 7001.104(d) additionally authorizes the Postal Service's DAEO, upon good cause shown by a Governor, to grant a written waiver to the Governor of any prohibited financial interest described in the proposed amendment, provided that the DAEO finds that:

(1) The waiver is not inconsistent with 5 CFR part 2635 or otherwise prohibited by law; and

(2) under the particular circumstances, application of the prohibition is not necessary to avoid the appearance of the Governor's misuse of position or loss of impartiality or otherwise to ensure confidence in impartiality or objectivity with which postal programs are administered.

The DAEO may impose appropriate conditions for granting of the waiver, such as requiring the Governor to execute a written statement of disqualification.

The waiver is intended, in appropriate cases, to lessen the burden that the prohibitions on holding or controlling the relevant financial interests may impose on, as applicable, the Governors, their spouses, or minor children while ensuring that they do not hold or control financial interests that may interfere with the objective and impartial performance by the Governors of their official duties.

III. Matters of Regulatory Procedure

Although the Postal Service is exempted by 39 U.S.C. 410(a) from the advance notice requirements of the Administrative Procedure Act regarding rulemaking (5 U.S.C. 553(b), (c)), the Postal Service invites comments on these proposed rules.

Lists of Subjects in 5 CFR Part 7001

Conflict of interests, Ethical standards, Executive branch standards of conduct, Government employees.

For the reasons set forth in the preamble, the United States Postal Service, with the concurrence of the United States Office of Government Ethics, proposes to amend 5 CFR part 7001 as follows:

PART 7001—SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE UNITED STATES POSTAL SERVICE

■ 1. The authority citation for 5 CFR part 7001 continues to read as follows:

Authority: 5 U.S.C. 7301; 5 U.S.C. App. (Ethics in Government Act of 1978); 39 U.S.C. 401; E.O. 12674, 54 FR 15159; 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547; 3 CFR 1990 Comp., p. 306; 5 CFR 2635.105, 2635.802, and 2635.803.

■ 2. Revise § 7001.102 to read as follows:

§ 7001.102 Restrictions on outside employment and business activities.

(a) *Prohibited outside employment and business activities.* No Postal Service employee shall:

(1) Engage in outside employment or business activities that involve providing consultation, advice, or any subcontracting service, with respect to the operations, programs, or procedures of the Postal Service, to any person who has a contract with the Postal Service or who the employee has reason to believe will compete for such a contract;

(2) Except as permitted by paragraph (b)(2) of this section, engage in outside employment or business activities with, for, or as a person engaged in:

(i) The operation of a commercial mail receiving agency registered with the Postal Service; or

(ii) The delivery outside the mails of any type of mailable matter, except daily newspapers.

Example to paragraph (a)(2)(ii): United Parcel Service (UPS), Federal Express (FedEx), Amazon, or DHL offers a part-time job to a postal employee. Because UPS, FedEx, Amazon and DHL are persons engaged in the delivery outside the mails of mailable matter (as defined in paragraph (c)(2) of this section) that is not daily newspapers, the employee may not engage in employment with UPS, FedEx, Amazon, or DHL in any location in any capacity while continuing employment with the Postal Service in any location in any capacity. If the employee chooses to work for UPS, FedEx, Amazon, or DHL, the employee must end his or her postal employment before commencing work for that company.

(3) Engage in any fundraising (as defined in 5 CFR 2635.808(a)(1)), for-profit business activity, or sales activity, including the solicitation of business or the receipt of orders, for oneself or any other person, while on duty or in uniform, at any postal facility, or using any postal equipment. This paragraph does not prohibit an employee from engaging in fundraising at a postal facility as permitted in connection with the Combined Federal Campaign (CFC) under 5 CFR part 950.

Example 1 to paragraph (a)(3): An employee volunteers at a local animal shelter (a non-profit organization) which is having its annual fundraising drive. The employee may not solicit funds or sell items to raise funds for the animal shelter while on duty, in uniform, at any postal facility, or using any postal equipment.

Example 2 to paragraph (a)(3): Outside of his postal employment, an employee operates a for-profit dog-walking business. The employee may not engage in activities relating to the operation of his business while on duty, in uniform, at any postal facility, or using any postal equipment.

Example 3 to paragraph (a)(3): Outside of her postal employment, an employee has a job as a sales associate for a cosmetics company. The employee may not solicit sales or receive orders for the cosmetic company from any person while on duty, in uniform, at any postal facility, or using any postal equipment.

(b) *Prior approval for outside employment and business activities.*

(1) *When prior approval required.* A Postal Service employee shall obtain approval from the Postal Service's Ethics Office in accordance with paragraph (b)(3) of this section prior to:

(i) Engaging in outside employment or business activities with or for any person with whom the employee has official dealings on behalf of the Postal Service;

(ii) Engaging in outside employment or business activities with, for, or as a person who has interests that are:

(A) Substantially dependent upon, or potentially affected to a significant degree by, postal rates, fees, or classifications; or

(B) Substantially dependent upon providing goods or services to, or for use in connection with, the Postal Service; or

(iii) Engaging in outside employment or business activities with or for any Highway Contract Route (HCR) contractor.

(2) *When prior approval may be requested for prohibited outside employment and activities.* If an entity with which an employee wishes to engage in outside employment or business activities is a subsidiary of an entity that is engaged in one the activities described in (a)(2) of this section, but does not itself engage in any those activities, the employee may request approval from the Postal Service's Ethics Office to engage in such activity. The employee's request should follow the procedures of (b)(3) of this section, and will be evaluated under the standard set forth in (b)(4) of this section.

Example to paragraph (b)(2): A postal employee who wishes to engage in outside employment with Whole Foods Market may submit a request to engage in that activity to the Postal Service's Ethics Office. Although Whole Foods Market is a subsidiary of Amazon, it is engaged in the supermarket business, not in the delivery outside the mails of mailable matter.

(3) *Submission and contents of request for approval.* An employee who wishes to engage in outside employment or business activities for which approval is required by paragraph (b)(1) of this section shall submit a written request for approval to the Postal Service's Ethics Office. The request shall be accompanied by a statement from the employee's supervisor briefly summarizing the employee's duties and stating any workplace concerns raised by the employee's request for approval. The request for approval shall include:

(i) A brief description of the employee's official duties;

(ii) The name of the outside employer, or a statement that the employee will be engaging in employment or business activities on his or her own behalf;

(iii) The type of employment or business activities in which the outside employer, if any, is engaged;

(iv) The type of services to be performed by the employee in connection with the outside employment or business activities;

(v) A description of the employee's official dealings, if any, with the outside employer on behalf of the Postal Service; and

(vi) Any additional information requested by the Postal Service's Ethics Office that is needed to determine whether approval should be granted.

(4) *Standard for approval.* The approval required by paragraph (b)(1) of this section shall be granted only upon a determination that the outside employment or business activities will not involve conduct prohibited by statute or federal regulation, including 5 CFR part 2635, which includes, among other provisions, the principle stated at 5 CFR 2635.101(b)(14) that employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards set forth in part 2635.

(c) *Special rules for outside employment or business activities of OIG employees.*—(1) *When reporting required.* A Postal Service Office of Inspector General (OIG) employee shall report compensated and uncompensated outside employment or business activities to the OIG's Office of General Counsel, including:

(i) Any knowing sale or lease of real estate to the Postal Service or to a Postal Service employee or contractor, regardless of the frequency of such sales or leases or whether the sale or lease is at fair market value;

(ii) Any ownership or control of a publicly-accessible online or physical storefront; and

(iii) Volunteer activities, if they regularly exceed 20 hours per week or when the employee holds an officer position in the organization.

Example 1 to paragraph (c)(1)(iii): An OIG employee occasionally volunteers with a domestic violence non-profit. The employee's volunteer duties are generally limited to 5 hours per week. The employee is not an officer of the organization. One weekend the employee helps to build a new home for a family, which takes a combined 22 hours. The employee is not required to report those volunteer activities because the employee is not an officer and the employee's volunteer activities do not *regularly* exceed 20 hours per week.

Example 2 to paragraph (c)(1)(iii): An OIG employee is a Scoutmaster for his child's local scouting group. The children meet for an hour each week and go on 4-hour hikes one weekend per month. Though ''Scoutmaster'' may involve leadership, it is not an officer position within the non-profit entity and need not be reported.

(2) *When prior approval required.* A Special Agent or Criminal Investigator shall also request and obtain written approval prior to engaging in outside employment or business activities which he or she is required to report under paragraph (c)(1) of this section. A request for approval shall be submitted to the OIG's Office of General Counsel, which will be reviewed under the same standard stated in paragraph (b)(3) of this section.

(3) *Implementation guidance.* The OIG's Office of General Counsel may issue internal instructions governing the submission of requests for approval of outside employment, business activities, and volunteer activities. The instructions may exempt categories of employment, business activities, or volunteer activities from the reporting and prior approval requirements of this section based on a determination that those activities would generally be approved and are not likely to involve conduct prohibited by statute or Federal regulation, including 5 CFR part 2635. The OIG's Office of General Counsel may include in these instructions examples of outside activities that are permissible or impermissible consistent with this part and 5 CFR part 2635.

(d) *Definitions.* For purposes of this section:

(1) *Outside employment or business activity* means any form of employment or business, whether or not for compensation. It includes, but is not limited to, the provision of personal services as officer, employee, agent, attorney, consultant, contractor, trustee, teacher, or speaker. It also includes, but is not limited to, engagement as principal, proprietor, general partner, holder of a franchise, operator, manager, or director. It does not include equitable ownership through the holding of publicly-traded shares of a corporation.

(2) *Commercial mail receiving agency* means a private business that acts as the mail receiving agent for specific clients. The business must be registered with the post office responsible for delivery to the commercial mail receiving agency.

(3) *A person engaged in the delivery outside the mails of any type of mailable matter* means a person who is engaged

in the delivery outside the mails of any letter, card, flat, or parcel eligible to be accepted for delivery by the Postal Service.

(4) *A person having interests substantially dependent upon, or potentially affected to a significant degree by, postal rates, fees, or classifications* includes a person:

(i) Primarily engaged in the business of publishing or distributing a publication mailed at Periodicals rates of postage;

(ii) Primarily engaged in the business of sending advertising, promotional, or other material on behalf of other persons through the mails;

(iii) Engaged in a commercial business that:

(A) Primarily utilizes the mails for the solicitation or receipt of orders for, or the delivery of, goods or services; and

(B) Can be expected to earn gross revenue exceeding $10,000 from utilizing the mails during the business's current fiscal year; or

(iv) Who is, or within the past 4 years has been, a party to a proceeding before the Postal Regulatory Commission.

Example 1 to paragraph (d)(4)(iii): An employee operates a business which sells handmade wooden bowls on its website and other e-commerce websites and uses the Postal Service as its primary shipper. The employee's business can be expected to earn gross revenue of more than $10,000 from utilizing the mails during the business's current fiscal year. The employee's business is ''a person having interests substantially dependent upon, or potentially affected to a significant degree by, postal rates, fees, or classifications'' because it is a commercial business that primarily utilizes the mails for the delivery of its goods and the business can be expected to earn gross revenue exceeding $10,000 from utilizing the mails during its current fiscal year.

Example 2 to paragraph (d)(4)(iii): An employee knits scarves as a hobby, most of which she gives to family and friends, but she occasionally sells extra scarves on an e-commerce website and uses the Postal Service as her primary shipper. The employee does not expect to receive more than $10,000 from utilizing the mails during the current calendar year in which she sells the scarves. The employee is not ''a person having interests substantially dependent upon, or potentially affected to a significant degree by, postal rates, fees, or classifications'' because she is not engaged in a commercial business that can be expected to earn gross revenue from utilizing the mails exceeding $10,000 during its current fiscal year.

(5) *A person having interests substantially dependent upon providing goods or services to, or for use in connection with, the Postal Service* includes a person:

(i) Providing goods or services under contract(s) with the Postal Service that in total can be expected to provide revenue exceeding $100,000 over the term(s) of the contract(s); or

(ii) Substantially engaged in the business of preparing items for others for mailing through the Postal Service.

Example to paragraph (d)(5)(ii): A mailing house that sorts and otherwise prepares for its clients large volumes of advertising, fundraising, or political mail for mailing to prospective customers, donors, or voters through the Postal Service is ''a person having interests substantially dependent upon providing goods or services to, or for use in connection with, the Postal Service'' because it is substantially engaged in the business of preparing items for others for mailing through the Postal Service.

■ 3. Add § 7001.104 to read as follows:

§ 7001.104 Prohibited financial interests of the Governors of the United States Postal Service.

(a) *General prohibitions.*—(1) No Governor of the United States Postal Service or his or her spouse or minor child shall acquire or hold, directly or indirectly:

(i) Any financial interest in a person engaged in the delivery outside the mails of any type of mailable matter, except daily newspapers; or

(ii) Any financial interest in a publicly-traded entity engaged primarily in the business of leasing real property to the Postal Service.

(2) No Governor shall actively control the acquisition of or the holding of any financial interest described in paragraph (a)(1)(i) or (ii) of this section on behalf of any entity whose financial interests are imputed to the Governor under 18 U.S.C. 208. A Governor actively controls the financial interests of an entity if he or she selects or dictates the entity's investments, such as stocks, bonds, commodities, or funds. A Governor does not actively control the financial interests of an entity if he or she merely directs the investment strategy of the entity, hires the entity's financial manager(s) who selects the entity's investments, or designates another employee of the entity to select the entity's investments. A Governor may have such investment authority when serving as an officer, director, trustee, general partner, or employee of an entity.

Example 1 to paragraph (a)(2): A Governor is also the chief executive officer (CEO) of a life insurance company. The company's policy is for: (1) The board of directors to determine the overall investment strategy for the company's excess cash, (2) an internal team to recommend to the CEO specific financial instruments in which to invest the company's excess cash to implement the board's overall investment strategy, and (3) the CEO to approve or disapprove of the internal team's specific investment recommendations. The Governor actively controls the financial interests of the life insurance company in his position as CEO of the company.

Example 2 to paragraph (a)(2): A Governor is also on the board of directors of an investment company. The company's policy is for: (1) The board of directors to determine the overall investment strategy for the company's excess cash, (2) the board of directors to choose an external investment manager to select and manage day-to-day the specific financial instruments in which the company's excess cash is invested to implement the board's overall investment strategy, and (3) the CEO and other company management official to oversee the investment management process, including periodic review of the company's investment portfolio. The Governor does not actively control the financial interests of the investment company in her position on the board of directors.

(b) *Exception.* Paragraph (a) of this section does not prohibit a Governor or his or her spouse or minor child from directly or indirectly acquiring or holding, or a Governor from actively controlling on behalf of any entity, any financial interest in any publicly-traded or publicly-available mutual fund (as defined in 5 CFR 2640.102(k)) or other collective investment fund, including a widely-held pension or other retirement fund, that includes any financial interest described in paragraph (a)(1)(i) or (ii) of this section, provided that:

(1) Neither the Governor nor his or her spouse exercises active control over the financial interests held by the fund; and

(2) The fund does not have a stated policy of concentrating its investments in, as applicable, persons engaged in the delivery outside the mails of mailable matter, except daily newspapers, or persons engaged primarily in the business of leasing real property to the Postal Service.

(c) *Reporting of prohibited financial interest and divestiture.*—(1) *General.* Any financial interest prohibited by

paragraph (a) of this section shall be divested within 90 calendar days of confirmation by the Senate of the Governor's nomination, or as soon as possible thereafter if there are restrictions on divestiture.

(2) *Newly-prohibited financial interests following confirmation.* If a financial interest directly or indirectly held by a Governor or his or her spouse or minor child, or a financial interest actively controlled by a Governor on behalf of any entity, becomes prohibited subsequent to the Governor's confirmation:

(i) The Governor shall report the prohibited financial interest to the Postal Service's Designated Agency Ethics Official (DAEO) within 30 calendar days of the DAEO informing the Governors that such financial interests have become prohibited; and

(ii) The prohibited financial interest shall be divested within 90 calendar days of the DAEO informing the Governors that such financial interests have become prohibited, or as soon as possible thereafter if there are restrictions on divestiture.

(3) *Prohibited financial interests acquired without specific intent following confirmation.*—(i) If a Governor or his or her spouse or minor child acquires a financial interest prohibited by paragraph (a)(1) of this section without specific intent to acquire it (such as through marriage, inheritance, or gift) subsequent to the Governor's confirmation:

(A) The Governor shall report the prohibited financial interest to the Postal Service's DAEO within 30 calendar days of its acquisition; and

(B) The prohibited financial interest shall be divested within 90 calendar days of its acquisition, or as soon as possible thereafter if there are restrictions on divestiture.

(ii) If an entity whose financial interests are actively controlled by a Governor acquires a financial interest described in paragraph (a)(1)(i) or (ii) of this section without specific intent to acquire it (such as through a gift) subsequent to the Governor's confirmation:

(A) The Governor shall report the prohibited financial interest to the Postal Service's DAEO within 30 calendar days of its acquisition; and

(B) The prohibited financial interest shall be divested within 90 calendar days of its acquisition, or as soon as possible thereafter if there are restrictions on divestiture.

(4) *Disqualification from participating in particular matters pending divestiture.* Pending any required divestiture of a prohibited financial interest provided for in paragraph (c) of this section, a Governor shall disqualify himself or herself from participating in particular matters involving or affecting the prohibited financial interest. Disqualification is accomplished by not participating in the particular matter.

(d) *Waiver of prohibited financial interests.* For good cause shown by a Governor, the Postal Service's DAEO may grant a written waiver to the Governor of any prohibited financial interest described in paragraph (a), (c)(2), or (c)(3) of this section; provided that the DAEO finds that the waiver is not inconsistent with 5 CFR part 2635 or otherwise prohibited by law, and that under the particular circumstances, application of the prohibition is not necessary to avoid the appearance of the Governor's misuse of position or loss of impartiality or otherwise to ensure confidence in the impartiality or objectivity with which the Postal Service's programs are administered. The DAEO may impose appropriate conditions for granting of the waiver, such as requiring the Governor to execute a written statement of disqualification.

(e) *Definition.* For purposes of this section, *a person engaged in the delivery outside the mails of any type of mailable matter* is as defined in § 7001.102(d)(3).

Ruth Stevenson,

Chief Counsel, Ethics and Legal Compliance, United States Postal Service.

Emory Rounds,

Director, U.S. Office of Government Ethics.

[FR Doc. 2022–04452 Filed 3–7–22; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2022–0161; Airspace Docket No. 22–AGL–12]

RIN 2120–AA66

Proposed Amendment of Class E Airspace; Owatonna, MN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend the Class E airspace at Owatonna, MN. The FAA is proposing this action as the result of an airspace review caused by the decommissioning of the Owatonna Outer Marker (OM) and Owatonna non-directional beacon (NDB). The name and geographical coordinates of the airport would also be updated to coincide with the FAA's aeronautical database.

DATES: Comments must be received on or before April 22, 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–2022–0161/Airspace Docket No. 22–AGL–12, at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

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

FOR FURTHER INFORMATION CONTACT: Rebecca Shelby, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5857.

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 Owatonna Degner Regional Airport, Owatonna, MN, to support instrument flight rule operations at this airport; and removing the Halfway VOR/DME from the header and legal description including associated extension, which are no longer required.

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–2022–0161/Airspace Docket No. 22–AGL–12.'' 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 6.6-mile (decreased from a 6.7-mile) radius of Owatonna Degner Regional Airport, Owatonna, MN; and removing the Halfway VOR/DME associated with the airspace in the legal description as it is no longer required; and updating the name (previously Owatonna Municipal Airport) and geographic coordinates of Owatonna Degner Regional Airport to coincide with the FAA's aeronautical database.

This action is the result of an airspace review due to the decommissioning of the Owatonna NDB and the Owatonna OM, which provided guidance to 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 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 71 continues to read as follows:

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

71.1 [Amended]

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

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

* * * * *

AGL MN E5 Owatonna, MN [Amended]

Owatonna Degner Regional Airport, MN
(Lat. 44°07′23″ N, long. 93°15′32″ W)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of Owatonna Degner Regional Airport.

Issued in Fort Worth, Texas, on March 2, 2022.

Martin A. Skinner,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2022–04825 Filed 3–7–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2022–0138; Airspace Docket No. 22–ASW–3]

RIN 2120–AA66

Proposed Amendment of Class E Airspace; Palestine, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend the Class E airspace extending upward from 700 feet above the surface at Palestine Municipal Airport, Palestine, TX. The FAA is proposing this action as the result of an airspace review due to the decommissioning of the Palestine non-directional beacon (NDB). The geographical coordinates of the airport would also be updated to coincide with the FAA's aeronautical database.

DATES: Comments must be received on or before April 22, 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–2022–0138/Airspace Docket No. 22–ASW–3, at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

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

FOR FURTHER INFORMATION CONTACT: Rebecca Shelby, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5857.

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 Palestine Municipal Airport, Palestine, 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–2022–0138/Airspace Docket No. 22–ASW–3.'' 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 6.6-mile (decreased from a 7.1-mile) radius at Palestine Municipal Airport, Palestine, TX, by removing the Frankston VOR/DME and the associated extension from the airspace legal description, 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 caused by the decommissioning of the Palestine 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 Palestine, TX [Amended]

Palestine Municipal Airport, TX
(Lat. 31°46′47″ N, long. 95°42′23″ W)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of Palestine Municipal Airport.

Issued in Fort Worth, Texas, on March 2, 2022.

Martin A. Skinner,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2022–04826 Filed 3–7–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2022–0165; Airspace Docket No. 22–AAL–14]

RIN 2120–AA66

Proposed Revocation of Colored Federal Airway Green 18 (G–18); Point Lay, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to revoke Colored Federal airway Green 18 (G–18) due to the pending decommissioning of the Point Lay, AK, (PIZ) Non-directional Beacon (NDB).

DATES: Comments must be received on or before April 22, 2022.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590; telephone: (800) 647–5527, or (202) 366–9826. You must identify FAA Docket No. FAA–2022–0165; Airspace Docket No. 22–AAL–14 at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.*

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

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would modify the route structure as necessary to preserve the safe and efficient flow of air traffic within the National Airspace System (NAS).

Comments Invited

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

Communications should identify both docket numbers (FAA Docket No. FAA–2022–0165; Airspace Docket No. 22–AAL–14) and be submitted in triplicate to the Docket Management Facility (see **ADDRESSES** section for address and phone number). You may also submit comments through the internet at *https://www.regulations.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2022–0165; Airspace Docket No. 22–AAL–14.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified comment closing

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

Availability of NPRM

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

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

Availability and Summary of Documents for Incorporation by Reference

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

Background

The aviation industry/users have indicated a desire for the FAA to transition the Alaskan en route navigation structure away from the dependency on NDBs. The advances in technology have allowed for alternate navigation methods to support decommissioning of high cost ground navigation equipment. The FAA has included Point Lay, AK, NDB on the schedule to be decommissioned. A non-rulemaking study was conducted in 2021 and the FAA received no objections to the removal of the NDB.

Colored Federal airway G–18 is dependent upon PIZ and will result in the airway being unusable once the decommissioning occurs. The FAA is proposing to revoke G–18 as a result. Currently, to mitigate the loss of G–18, pilots can utilize United States Air Navigation (RNAV) routes T–228, T–277, and VHF Omnidirectional Radar (VOR) Federal airway V–506 to navigate. In the future, the FAA will propose a RNAV route to take the place of G–18.

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 to revoke Colored Federal airway G–18 due to the decommissioning of PIZ in the vicinity of Point Lay, AK.

Colored Federal Airway G–18 currently navigates between the Hotham, AK, NDB via PIZ, to the Atqasuk, AK, NDB. The FAA proposes to revoke G–18 in its entirety.

Colored Federal airways are published in paragraph 6009(a) 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 Colored Federal airway listed in this document would be published subsequently in FAA Order JO 7400.11.

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

Regulatory Notices and Analyses

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

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

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

Paragraph 6009(a) Colored Federal Airways.

* * * * *

G–18 [Remove]

* * * * *

Issued in Washington, DC, on March 2, 2022.

Michael R. Beckles,

Manager, Rules and Regulations Group.

[FR Doc. 2022–04722 Filed 3–7–22; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2020–0445; FRL–9621–01–R4]

Air Plan Approval; SC; 2018 General Assembly Miscellaneous Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a portion of a State Implementation Plan (SIP) revision submitted by the State of South Carolina, through the South Carolina Department of Health and Environmental Control (SC DHEC or Department), on April 24, 2020. The SIP revision updates the numbering and formatting of South Carolina's regulations applicable to emissions inventories, emissions statements, and

credible evidence. EPA is proposing to approve these changes pursuant to the Clean Air Act (CAA or Act) and implementing federal regulations.

DATES: Comments must be received on or before April 7, 2022.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2020–0445 at *www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include a discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Tiereny Bell, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9088. Ms. Bell can also be reached via electronic mail at *bell.tiereny@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. What is EPA proposing?

On April 24, 2020, SC DHEC submitted a SIP revision to EPA for approval that includes changes to South Carolina Regulation 61–62.1—*Definitions and General Requirements.* In this notice, EPA is proposing to incorporate into South Carolina's SIP updates to Section III—*Emissions Inventory and Emissions Statements* and Section V—*Credible Evidence* of South Carolina Regulation 61–62.1.1 [1] EPA is proposing to approve these changes because they meet the requirements of and are consistent with the CAA.

II. Analysis of State's Submittal

As mentioned above, the April 24, 2020, SIP revision includes changes to Section III—*Emissions Inventory and Emissions Statements* and Section V—*Credible Evidence* of South Carolina Regulation 61–62.1. These changes update numbering and citation formatting within these regulations (*e.g.,* citations to the Code of Federal Regulations now include the word ''Part''). These changes are non-substantive in nature.

III. Incorporation by Reference

In this document, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference South Carolina's Regulation 61–62.1, Section III—*Emissions Inventory and Emissions Statements* and Section V-*Credible Evidence,* both of which are state effective on April 24, 2020. EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 4 office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

IV. Proposed Action

EPA is proposing to approve and incorporate into South Carolina's SIP the aforementioned changes to South Carolina Regulation 61–62.1, Section III—*Emissions Inventory and Emissions Statements* and Section V—*Credible Evidence,* state effective on April 24, 2020. EPA has preliminarily determined that these changes meet the applicable requirements of section 110 of the CAA and the applicable regulatory requirements at 40 CFR part 51.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 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. This proposed action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

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

Because this proposed action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law, this proposed action for the State of South Carolina does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). Therefore, this proposed action will not impose substantial direct costs on Tribal governments or preempt Tribal law. The Catawba Indian Nation (CIN) Reservation is located within the boundary of York County, South Carolina. Pursuant to the Catawba Indian Claims Settlement Act, S.C. Code Ann. 27–16–120 (Settlement Act), ''all state and local environmental laws and regulations apply to the [Catawba Indian Nation] and are fully enforceable by all relevant state and local agencies and authorities.'' The CIN also retains authority to impose regulations applying higher environmental

[1] The April 24, 2020, submittal from SC DHEC includes other updates and revisions as well. EPA previously acted on Section 1—*Definitions* of South Carolina Regulation 61–62.1. *See* 86 FR 59641 (October 28, 2021). EPA has not taken action on Section II—*Permit Requirements* and Section IV—*Source Tests* of the South Carolina Regulation 61–62.1. EPA will address these other provisions in separate action.

standards to the Reservation than those imposed by state law or local governing bodies, in accordance with the Settlement Act.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

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

Dated: February 28, 2022.

Daniel Blackman,

Regional Administrator, Region 4.

[FR Doc. 2022–04832 Filed 3–7–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2021–0686; FRL–9124–01–R4]

Air Plan Approval; Kentucky; Fugitive Emissions Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted by the Commonwealth of Kentucky (Commonwealth), through the Energy and Environmental Cabinet (Cabinet) on October 15, 2020. The SIP revision updates the Commonwealth's regulation for the control of fugitive emissions. This revision contains minor non-substantive changes, grammatical edits, renumbering, the removal of one provision, the addition of one new requirement, and the incorporation of two definitions to support the new requirement. EPA is proposing to approve these changes pursuant to the Clean Air Act (CAA or Act).

DATES: Comments must be received on or before April 7, 2022.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2021–0686 at *www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Andres Febres, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. The telephone number is (404) 562–8966. Mr. Febres can also be reached via electronic mail at *febres-martinez.andres@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Overview

On October 15, 2020, the Commonwealth submitted changes to the Kentucky SIP for EPA approval.[1] EPA is proposing to approve these changes to Regulation 401 KAR 63:010—*Fugitive Emissions,* which was approved into the SIP on July 12, 1982 (47 FR 30059), and establishes control requirements for fugitive emissions.

II. Analysis of the Commonwealth's SIP Revision

The October 15, 2020, SIP revision contains primarily minor non-substantive changes which concern minor language edits and renumbering changes throughout regulation 401 KAR 63:010. Additionally, the revision includes the removal of one provision, the addition of one new requirement, and the incorporation of two new definitions to support this requirement.

The bulk of the changes in the October 15, 2020, SIP revision concern clarification and minor language edits. For example, one language edit changes the word ''promulgate'' to ''prescribe.'' Another example of a language edit the Commonwealth made was to change the language in the ''NECESSITY, FUNCTION, AND CONFORMITY'' section of the rule to align more closely with the language in Kentucky's implementing statute regarding the powers and duties of the Cabinet. Additionally, Kentucky edited this section to update references to the rules that outline the Cabinet's power to promulgate the fugitive emissions rules. With respect to renumbering changes, the revision switches the order of Section 1, previously ''Applicability,'' and Section 2, previously ''Definitions.'' Other similar changes include the necessary renumbering of sections to incorporate the addition or removal of provisions, which are further discussed below.

The proposed changes seek to delete paragraph 4(2), a nuisance provision, from the SIP-approved rule. The Commonwealth moved the text of 4(2) to existing paragraph 3(4) in its revised state rule. However, as noted in the October 15, 2020, cover letter submitting these changes, the Commonwealth requests that EPA remove existing paragraph 4(2) from the SIP and not incorporate the text moved to paragraph 3(4). EPA is proposing to remove the SIP-approved version of paragraph 4(2) and not incorporate the text in paragraph 3(4) of the revised state rule into the SIP because this nuisance provision is not related to attainment and maintenance of the national ambient air quality standards (NAAQS) and is therefore not related to the CAA requirements for SIPs.[2]

The changes add a new requirement to Section 3 to use EPA's Reference Method 22 (*Visual Determination of Fugitive Emissions*) of appendix A–7 in 40 CFR part 60, as the standard method by which to determine the level of visible fugitive dust emissions beyond the lot line of the property on which emissions originate. The Commonwealth adds this method to confirm compliance with the opacity standard, as specified in Kentucky's Rule 63:010. As a part of the new requirement, the Commonwealth also adds specific emission standards, in the form of time and observational period limits, for all sources to which this rule applies. Specifically, the revised rule states that a source shall not cause, suffer, or allow visible fugitive emissions beyond the lot line of the property, observed using EPA's Reference Method 22, for more than 5 minutes in a 60-minute period, or more than 20 minutes in a 24-hour period.

Finally, the Commonwealth adds under Section 1 (formerly Section 2), the definitions for ''Emission time'' and ''Observation period,'' to define terms in

[1] EPA notes that the Commonwealth's submission was received on October 16, 2020. However, for clarity, EPA will refer to this submission by its cover letter date of October 15, 2020.

[2] Excluding nuisance provisions that are unrelated to attainment and maintenance of the NAAQS from SIPs is consistent with longstanding Agency practice. *See, e.g.,* 85 FR 73636 (November 19, 2020).

the language from the Reference Method 22 requirements in Section 3. EPA has determined that the addition of Method 22 and these definitions is consistent with federal regulations. Without these requirements, it would be difficult to determine compliance with 401 KAR 63:010 because the previous version of the rule did not offer a standard method for determining visible emissions.

EPA has reviewed all changes in the October 15, 2020, SIP revision regarding 401 KAR 63:010 and has preliminarily determined that the changes are consistent with Federal regulations and do not interfere with attainment and maintenance of the NAAQS or any other applicable requirement of the Act. The changes strengthen the existing fugitive emission control standards in the Kentucky SIP. For these reasons, EPA is proposing to approve the changes to this rule into the SIP.

III. Incorporation by Reference

In this document, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference Kentucky's Regulation 401 KAR 63:010—*Fugitive Emissions,* state effective on June 30, 2020, which updates the Commonwealth's fugitive emission provisions, with the exception of the nuisance provisions added to paragraph 3(4) for the reasons described in Section II. EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 4 office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

IV. Proposed Action

EPA is proposing to approve the revision to Regulation 401 KAR 63:010—*Fugitive Emissions,* which updates the Commonwealth's fugitive emissions rule. EPA is proposing to approve these changes because they are consistent with the CAA.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 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. This action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

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

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

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

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

Dated: February 17, 2022.

Daniel Blackman,

Regional Administrator, Region 4.

[FR Doc. 2022–04111 Filed 3–7–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R08–OAR–2021–0809; FRL–9579–01–R8]

Air Plan Approval; Montana; Thompson Falls PM_{10} Nonattainment Area Limited Maintenance Plan and Redesignation Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to fully approve the Limited Maintenance Plan (LMP) submitted by the State of Montana to EPA on November 4, 2021, for the Thompson Falls Moderate nonattainment area (NAA) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM_{10}) and concurrently redesignate the NAA to attainment for the 24-hour PM_{10} National Ambient Air Quality Standard (NAAQS). In order to approve the LMP and redesignation, EPA is proposing to determine that the Thompson Falls NAA has attained the 1987 24-hour PM_{10} NAAQS of 150 μg/m^3. This determination is based upon monitored air quality data for the PM_{10} NAAQS during the years 2015–2020. EPA is taking this action pursuant to the Clean Air Act (CAA).

DATES: Written comments must be received on or before April 7, 2022.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–OAR–2021–0809 to the Federal Rulemaking Portal: *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *www.regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or

comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www2.epa.gov/dockets/commenting-epa-dockets.*

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically in *www.regulations.gov.* To reduce the risk of COVID–19 transmission, for this action we do not plan to offer hard copy review of the docket. Please email or call the person listed in the **FOR FURTHER INFORMATION CONTACT** section if you need to make alternative arrangements for access to the docket.

FOR FURTHER INFORMATION CONTACT: Kate Gregory, Air and Radiation Division, U.S. Environmental Protection Agency (EPA), Region 8, Mail Code 8P–ARD–QP, 1595 Wynkoop Street, Denver, Colorado 80202–1129, telephone number: (303) 312–6175, email address: *gregory.kate@epa.gov.*

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

I. Background

Description of the Thompson Falls NAA

The Thompson Falls NAA is in Sanders County and is on the north side of the Clark Fork River Valley in northwestern Montana. The Clark Fork River has been dammed at the center of the small town of Thompson Falls to form the Thompson Falls Reservoir and the configuration of the nearby mountains and valley create temperature inversions in the fall and winter months. The EPA promulgated the PM_{10} NAAQS on July 1, 1987 (52 FR 24634). The Thompson Falls NAA was originally designated as a Group III area on July 1, 1987 (52 FR 24634), meaning, at that time, there was a strong likelihood the Thompson Falls NAA would attain the PM_{10} NAAQS and, therefore, needed only adjustments to their preconstruction permit review program and monitoring network. However, multiple exceedances of the 1987 24-hour PM_{10} NAAQS resulted in nonattainment and subsequently the Thompson Falls NAA was classified as Moderate for the 1987 24-hour PM_{10} NAAQS, effective January 20, 1994 (58 FR 67334). Within 18 months of this Moderate designation, by May 18, 1995, Montana was required to submit to EPA a Moderate NAA State Implementation Plan (SIP) for the Thompson Falls NAA containing, among other requirements, provisions to assure that reasonably available control measures (RACM), including reasonably available control technologies (RACT) and demonstrated whether it was practicable to attain the PM_{10} NAAQS by December 31, 2000 (57 FR 13498 (April 16, 1992).[1]

The State of Montana submitted an initial PM_{10} SIP to EPA on June 26, 1997, and a subsequent submission on June 13, 2000. EPA approved both the June 26, 1997 and the June 13, 2000 p.m.$_{10}$ SIP submissions for the Thompson Falls initial control plan on April 24, 2008 (73 FR 22057). The State of Montana's SIP for the Thompson Falls Moderate NAA included, but was not limited to, a comprehensive emissions inventory, RACM (implemented by November 18, 1997), a demonstration that attainment of the PM_{10} NAAQS would be achieved in Thompson Falls by December 31, 2000; Reasonable Further Progress (RFP) requirements and control measures that satisfy the contingency measures requirement of section 172(c)(9) of the CAA. The EPA fully approved the Thompson Falls NAA PM_{10} attainment plan on January 22, 2004 (69 FR 3011).

II. Requirements for Redesignation

A. CAA Requirements for Redesignation of NAAs

NAAs can be redesignated to attainment after the area has measured air quality data showing it has attained the NAAQS and when certain planning requirements are met. Section 107(d)(3)(E) of the CAA, and the General Preamble to Title I provide the criteria for redesignation. *See* 57 FR 13498 (April 16, 1992). These criteria are further clarified in a policy and guidance memorandum from John Calcagni, Director, Air Quality Management Division, EPA Office of Air Quality Planning and Standards dated September 4, 1992, ''Procedures for Processing Requests to Redesignate Areas to Attainment.'' [2] The criteria for redesignation are:

(1) The Administrator has determined that the area has attained the applicable NAAQS;

(2) The Administrator has fully approved the applicable SIP for the area under section 110(k) of the CAA;

(3) The state containing the area has met all requirements applicable to the area under section 110 and part D of the CAA;

(4) The Administrator has determined that the improvement in air quality is due to permanent and enforceable reductions in emissions; and

(5) The Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A of the CAA.

B. The LMP Option for PM_{10} NAAs

On August 9, 2001, the EPA issued guidance on streamlined maintenance plan provisions for certain moderate PM_{10} NAAs seeking redesignation to attainment (Memo from Lydia Wegman, Director, Air Quality Standards and Strategies Division, entitled ''Limited Maintenance Plan Option for Moderate PM_{10} Nonattainment Areas,'' (hereafter the LMP Option memo)).[3] The LMP Option memo contains a statistical demonstration to show that areas meeting certain air quality criteria will, with a high degree of probability, maintain the standard 10 years into the future. Thus, the EPA has already provided the maintenance demonstration for areas meeting the criteria outlined in the LMP Option memo. It follows that future year emission inventories for these areas, and some of the standard analyses to determine transportation conformity with the SIP are no longer necessary.

To qualify for the LMP Option, the area should have attained the 1987 24-hour PM_{10} NAAQS, based upon the most recent 5 years of air quality data at all monitors in the area, and the 24-hour design concentration should be at or below the ''Critical Design Value'' (CDV). The CDV is a calculated design concentration that indicates that the area has a low probability (1 in 10) of exceeding the NAAQS in the future. For the purposes of qualifying for the LMP option, a presumptive CDV of 98 μg/m^3 is most often employed, but an area may elect to use a site-specific CDV should the average design concentration (ADC) be above 98 μg/m^3, while demonstrating that the area has a low probability of exceeding the NAAQS in the future. The annual PM_{10} standard was effectively

[1] *see also* 57 FR 18070 (April 28, 1992) and 66 FR 55102 (November 1, 2001).

[2] The ''Procedures for Processing Requests to Redesignate Areas to Attainment'' (Calcagni memo) outlines the criteria for redesignation (see docket for memo).

[3] The ''Limited Maintenance Plan Option for Moderate PM_{10} Nonattainment Areas'' outlines the criteria for development of a PM_{10} limited maintenance plan (see docket for memo).

revoked on December 18, 2006 (71 FR 61143), and as such will not be discussed as a requirement for qualifying for the LMP option. In addition, the area should expect only limited growth in on-road motor vehicle PM_{10} emissions (including fugitive dust) and should have passed a motor vehicle regional emissions analysis test. The LMP Option memo also identifies core provisions that must be included in the LMP. These provisions include an attainment year emissions inventory, assurance of continued operation of an EPA-approved air quality monitoring network, and contingency provisions.

III. Review of Montana's Submittal Addressing the Requirements for Redesignation and Limited Maintenance Plan

A. Has the Thompson Falls NAA attained the applicable NAAQS?

States must demonstrate that an area has attained the 24-hour PM_{10} NAAQS through analysis of ambient air quality data from an ambient air monitoring network representing peak PM_{10} concentrations. The data should be stored in the EPA Air Quality System (AQS) database. The request for redesignation of the Thompson Falls PM_{10} NAA submitted by the State of Montana presented data and analyses to demonstrate that the area attained the PM_{10} standard using 2015–2019 data. During the review process the EPA identified a single 2017 24-hour PM_{10} data point that was inadvertently omitted from the submission, and therefore this datapoint was included in the tables and calculations contained in this action. In addition to reviewing the 2015–2019 data the EPA included 2020 p.m.$_{10}$ data in this action (as it is currently the most recent year of certified data present in AQS) to confirm that the area is still attaining the 24-hour PM_{10} NAAQS. Additionally, preliminary 2021 data indicates the area continues to attain.

Today, EPA is proposing to determine that the Thompson Falls NAA has attained the 24-hour PM_{10} NAAQS based on monitoring data from calendar years 2015–2020. The 24-hour standard is attained when the expected number of days with 24-hour average concentrations above 150 μg/m^3 (averaged over a 3-year period) is less than or equal to one. *See* 40 CFR 50.6(a). A minimum of three complete and consecutive years of air quality data are generally necessary to show attainment of the standard. *See* 40 CFR part 50, appendix K. A complete year of air quality data, as referred to in 40 CFR part 50, appendix K, is comprised of all four calendar quarters with each quarter containing data from at least 75% of the scheduled sampling days.

The Thompson Falls NAA has one State and Local Air Monitoring Station (SLAMS) PM_{10} monitor, Thompson Falls High School (AQS ID 30–089–0007), operated by the Montana Department of Environmental Quality (MDEQ). Table 1 summarizes the PM_{10} data collected from 2015–2020 for the Thompson Falls NAA. The EPA deems the data collected from these monitors valid, and the data have been submitted and certified by the MDEQ to be included in AQS. All years are complete except for 2016 which has one incomplete quarter of data. Therefore, the State performed data substitution for the missing 2016 data. Methods and results for the missing 2016 data substitution can be found in Appendix E of the State submission in the docket of this action.

TABLE 1—SUMMARY OF MAXIMUM 24-HOUR PM_{10} CONCENTRATIONS (μg/m^3), DESIGN CONCENTRATIONS (μg/m^3), AND NUMBER OF EXCEEDANCES FOR THOMPSON FALLS 2015–2020

[Based on data from Thompson Falls High School, AQS Identification Number (30–089–0007)]

Year	Maximum concentration	Design concentration [4]	Number of exceedances excluding regionally concurred exceptional events [5]
2015	143	135	0
2016	135	135	0
2017	210	135	1
2018	72	135	0
2019	43	72	0
2020	148	99	0

The CAA allows for the exclusion of air quality monitoring data from design value calculations when there are exceedances caused by exceptional events, including for expected number exceedances for PM_{10} averaged over a 3-year period, that meet the criteria for an exceptional event identified in the EPA's implementing regulations, the Exceptional Events Rule at 40 CFR 50.1, 50.14, and 51.930. For the purposes of this proposed action, on November 23, 2021, the State of Montana submitted exceptional event demonstrations to request exclusion of data impacted by wildfires. The EPA evaluated the State of Montana's exceptional event demonstrations for the flagged values of the 24-hour PM_{10} listed in Table 3 below in the Thompson Falls Moderate NAA, with respect to the requirements of EPA's Exceptional Events Rule (40 CFR 50.1, 50.14, and 50.930).

On January 25, 2022, EPA concurred with the State of Montana's requests to exclude event-influenced data listed in Table 3, finding that the State of Montana's demonstration met the Exceptional Event Rule criteria. As such, the event-influenced data have been removed from the data set used for regulatory purposes. For this proposed action, EPA relies on the PM_{10} concentrations reported at the Thompson Falls monitoring site which showed only one exceedance from 2015–2020 when exceptional events are excluded. Therefore, the expected number of days with 24-hour average concentrations above 150 μg/m^3 averaged over a 3-year period is less than one, and as such, the EPA proposes to determine that the Thompson Falls NAA has attained the standard for the 24-hour PM_{10} NAAQS.[6]

[4] The design concentrations are calculated using three years of data and the ''Table Look-up'' method described in the ''PM_{10} SIP Development Guideline'', EPA–450/2–86–001, June 1987.

[5] Exceedances in 2017 and 2020 have been flagged and concurred on as exceptional events. Additional information on 2017 data can be found in Appendix A, p. a–1, of the submission by the state in the docket of this action and additional information on 2020 data can be found in the docket for this action, document titled: Montana 2020 p.m.$_{10}$ Letter.

[6] Please see section III(F) of this action for further discussion and description of exceptional events in

Continued

Additionally, the EPA concurred on the State of Montana's request to exclude PM_{10} data listed in Table 3 in regulatory decisions. For further information, refer to the State of Montana's Exceptional Event demonstration packages and the EPA's concurrence and analyses located in the docket for this proposed action.

B. Does the Thompson Falls NAA have a fully approved SIP under CAA section 110(k)?

To qualify for redesignation, the SIP for the area must be fully approved under CAA section 110(k) and must satisfy all requirements that apply to the area. Section 189 of the CAA contains requirements and milestones for all initial Moderate NAA SIPs including: (1) Provisions to assure that RACM (including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of RACT shall be implemented no later than December 10, 1993; (2) A demonstration (including air quality modeling) that the plan will provide for attainment as expeditiously as practicable by no later than December 31, 1994, or, where the state is seeking an extension of the attainment date under section 188(e), a demonstration that attainment by December 31, 1994, is impracticable and that the plan provides for attainment by the most expeditious alternative date practicable (CAA sections 189(a)(1)(A)); (3) Quantitative milestones which are to be achieved every 3 years and which demonstrate RFP toward attainment by December 31, 1994, (CAA sections 172(c)(2) and 189(c)); and (4) Contingency measures to be implemented if the area fails to make RFP or attain by its attainment deadline. These contingency measures are to take effect without further action by the state or the EPA. (CAA section 172(c)(9)).

The EPA fully approved the Thompson Falls NAA PM_{10} attainment plan on January 22, 2004 (69 FR 3011). The Thompson Falls plan included RACM, an attainment demonstration, emissions inventory, quantitative milestones, and control and contingency measure requirements. As such, the area has a fully approved NAA SIP under section 110(k) of the CAA.

C. Has the state met all applicable requirements under section 110 and Part D of the CAA?

Section 107(d)(3)(E) of the CAA requires that a state containing a NAA must meet all applicable requirements under section 110 and Part D of the CAA for an area to be redesignated to attainment. The EPA interprets this to mean that the state must meet all requirements that applied to the area prior to, and at the time of, the submission of a complete redesignation request. The following is a summary of how Montana meets these requirements.

1. CAA Section 110 Requirements

Section 110(a)(2) of the CAA contains general requirements for SIPs. These requirements include, but are not limited to, submittal of a SIP that has been adopted by the state after reasonable notice and public hearing, provisions for establishment and operation of appropriate apparatus, methods, systems and procedures necessary to monitor ambient air quality, implementation of a permit program, provisions for Part C—Prevention of Significant Deterioration (PSD) and Part D—New Source Review (NSR) permit programs, criteria for stationary source emission control measures, monitoring and reporting, provisions for modeling and provisions for public and local agency participation. See the General Preamble for further explanation of these requirements. *See* 57 FR 13498 (April 16, 1992).

For purposes of redesignation, the EPA's review of the Montana SIP shows that the State has satisfied all requirements under section 110(a)(2) of the CAA. Further, in 40 CFR 52.1372, the EPA has approved Montana's plan for the attainment and maintenance of the national standards under section 110.

2. Part D Requirements

Part D contains general requirements applicable to all areas designated nonattainment. The general requirements are followed by a series of subparts specific to each pollutant. All PM_{10} NAAs must meet the general provisions of Subpart 1 and the specific PM_{10} provisions in Subpart 4, ''Additional Provisions for Particulate Matter Nonattainment Areas.'' The following paragraphs discuss these requirements as they apply to the Thompson Falls NAA.

3. Subpart 1, Section 172(c)

Subpart 1, section 172(c) contains general requirements for NAA plans. A thorough discussion of these requirements may be found in the General Preamble. *See* 57 FR 13538 (April 16, 1992). CAA section 172(c)(2) requires nonattainment plans to provide for RFP. Section 171(1) of the CAA defines RFP as ''such annual incremental reductions in emissions of the relevant air pollutant as are required by this part (part D of title I) or may reasonably be required by the Administrator for the purpose of ensuring attainment of the applicable national ambient air quality standard by the applicable date.'' Since EPA is proposing to determine that the Thompson Falls NAA is in attainment of the PM_{10} NAAQS, we believe that no further showing of RFP or quantitative milestones is necessary.

4. Section 172(c)(3)—Emissions Inventory Section

Section 172(c)(3) of the CAA requires a comprehensive, accurate, current inventory of actual emissions from all sources in the Thompson Falls PM_{10} NAA. Montana included an emissions inventory for the calendar year 2017 with the November 4, 2021submittal of the LMP for the NAA. The LMP Option memo states that an attainment inventory should represent emissions during the same 5-year period associated with the air quality data used to determine that the area meets the applicability requirements of the LMP option. The Thompson Falls LMP includes an emission inventory from 2017, representative of the 2015–2019 5-year period which served as the 5-year period relied upon in the LMPs as meeting the air quality data requirements of the LMP option memo.[7]

5. Section 172(c)(5)—NSR

The 1990 CAA Amendments contained revisions to the NSR program requirements for the construction and operation of new and modified major stationary sources located in NAAs. The CAA requires states to amend their SIPs to reflect these revisions but does not require submittal of this element along with the other SIP elements. The CAA established June 30, 1992, as the submittal date for the revised NSR programs (section 189 of the CAA).

Montana has a fully approved nonattainment NSR program, approved on August 30, 1995 (60 FR 45051). Montana also has a fully approved PSD

the Thompson Falls NAA during the 2015–2020 time period.

[7] The emissions inventory included in the Thompson Falls MT submission is the 2017 National Emissions Inventory (NEI). The NEI is a composite of data from many different sources, with PM data coming primarily from EPA models as well as from state, tribal, and local air quality management agencies. Different data sources use different data collection methods, and many of the emissions data are based on estimates rather than actual measurements. The EPA considers the 2017 NEI representative of the period from 2015—2019 because MT provided comparable vehicle miles traveled (VMT) data in their submission. *See* Thompson Falls, MT Submission, Appendix C, Montana Department of Transportation Future VMT Projections, p.C–1 in docket.

program, approved on August 30, 1995 (60 FR 45051). Upon the effective date of redesignation of an area from nonattainment to attainment, the requirements of the Part D NSR program will be replaced by the PSD program and the maintenance area NSR program.

6. Section 172(c)(7)—Compliance With CAA Section 110(a)(2): Air Quality Monitoring Requirements

Once an area is redesignated, the state must continue to operate an appropriate air monitoring network in accordance with 40 CFR part 58 to verify attainment status of the area. The State of Montana operates one PM_{10} SLAMS in each of the NAAs. The Thompson Falls monitoring site meets EPA SLAMS network design and siting requirements set forth at 40 CFR part 58, appendices D and E. In section 3.5 of the LMP that we are proposing to approve, the State commits to continued operation of the monitoring network.

7. Section 172(c)(9)—Contingency Measures

The CAA requires that contingency measures take effect if the area fails to meet RFP requirements or fails to attain the NAAQS by the applicable attainment date. Since the Thompson Falls NAA has attained the 1987 24-hour PM_{10} NAAQS, contingency measures are no longer required under section 172(c)(9) of the CAA. However, contingency provisions are required for maintenance plans under section 175(a)(d). We describe the contingency provisions Montana provided in the LMP section below.

8. Part D, Subpart 4

Part D, subpart 4, section 189(a), (c) and (e) requirements apply to any Moderate NAA before the area can be redesignated to attainment. The requirements which were applicable prior to the submission of the request to redesignate the area must be fully approved into the SIP before redesignating the area to attainment. These requirements include: (a) Provisions to assure that RACM was implemented by December 10, 1993; (b) Either a demonstration that the plan provided for attainment as expeditiously as practicable but not later than December 31, 1994, or a demonstration that attainment by that date was impracticable; (c) Quantitative milestones which were achieved every 3 years and which demonstrate RFP toward attainment by December 31, 1994; and (d) Provisions to assure that the control requirements applicable to major stationary sources of PM_{10} also apply to major stationary sources of PM_{10} precursors except where the Administrator determined that such sources do not contribute significantly to PM_{10} levels which exceed the NAAQS in the area. These provisions were fully approved into the SIP upon the EPA's approval of the PM_{10} Moderate area plan for the Thompson Falls NAA on January 22, 2004 (69 FR 3011).

D. Has the state demonstrated that the air quality improvement is due to permanent and enforceable reductions?

A state must be able to reasonably attribute the improvement in air quality to permanent and enforceable emission reductions. In making this showing, a state must demonstrate that air quality improvements are the result of actual enforceable emission reductions. This showing should consider emission rates, production capacities, and other related information. The analysis should assume that sources are operating at permitted levels (or historic peak levels) unless evidence is presented that such an assumption is unrealistic. Permanent and enforceable control measures in the Thompson Falls NAA SIP includes RACM. Emission sources in the NAA have been implementing RACM for at least 10 years.

Areas that qualify for the LMP will meet the NAAQS, even under worst case meteorological conditions. Under the LMP option, the maintenance demonstration is presumed to be satisfied if an area meets the qualifying criteria. Thus, by qualifying for the LMP, Montana has demonstrated that the air quality improvements in the Thompson Falls NAA is the result of permanent emission reductions and not a result of either economic trends or meteorology. A description of the LMP qualifying criteria and how the Thompson Falls area meets these criteria is provided in the following section.

Permanent and enforceable emission reductions in the Thompson Falls NAA have reduced emissions 29% since the 1991 baseline. The primary controls incorporated into the SIP included rules focused on reducing fugitive dust emissions from roads and parking lots. Additionally, the approved control plan satisfied the requirements for RACM of area sources. Based on the 2017 national emissions inventory, PM_{10} emissions in all source areas are below the levels approved in the original control plan.[8]

E. Does the area have a fully approved maintenance plan pursuant to section 175A of the CAA?

In this action, we are proposing to approve the LMP for the Thompson Falls NAA in accordance with the principles outlined in the LMP Option.

F. Has the state demonstrated that the Thompson Falls NAA qualifies for the LMP Option?

The LMP Option memo outlines the requirements for an area to qualify for the LMP Option. First, the area should be attaining the NAAQS. As stated above in section III. A., the EPA has determined that the Thompson Falls NAA is attaining the PM_{10} NAAQS.

Second, the ADC for the past 5 years of monitoring data must be at or below the CDV. As noted in section II.B., the CDV is a margin of safety value and is the value at which an area has been determined to have a 1 in 10 probability of exceeding the NAAQS. The LMP Option memo provides two methods for review of monitoring data for the purpose of qualifying for the LMP option. The first method is a comparison of a site's ADC with the CDV of 98 $\mu g/m^3$ for the 24-hour PM_{10} NAAQS. A second method that applies to the 24-hour PM_{10} NAAQS is the calculation of a site-specific CDV and a comparison of the site-specific CDV with the ADC for the past 5 years of monitoring data. Table 2 below outlines the design concentrations for the years 2015–2020 and presents the ADC.

Table 3 summarizes the wildfire related events that were excluded from the calculated design concentrations in Table 2. Table 3 includes all regionally concurred exceptional events, as well as values between 98 $\mu g/m^3$ and 155 $\mu g/m^3$, which were treated in a manner analogous to exceedance data under the Exceptional Events Rule for the purpose of determining the LMP option eligibility. The values between 98 $\mu g/m^3$ and 155 $\mu g/m^3$ remain in the AQS database for use in calculating design concentrations for every purpose besides determining LMP eligibility.[9] The Exceptional Events Rule can be found in 40 CFR 50.14 and 40 CFR 51.930, and outlines the requirements for the treatment of monitored air quality data that has been heavily influenced by an exceptional event. 40 CFR 50.1(j) defines an exceptional event as an event which affects air quality, is not reasonably controllable or preventable, is an event caused by

[8] See Thompson Falls, MT submission in docket, Table 2.4—Thompson Falls, MT—PM_{10} Emission Summary, p. 2–5.

[9] Update on Application of the Exceptional Events Rule to the PM_{10} Limited Maintenance Plan Option, US EPA, William T. Harnett, Director, Air Quality Policy Division, OAQPS, May 7, 2009.

human activity that is unlikely to recur at a particular location or a natural event and is determined by the Administrator in accordance with 40 CFR 50.14 to be an exceptional event. Exceptional events do not include stagnation of air masses or meteorological inversions, meteorological events involving high temperatures or lack of precipitation, or air pollution relating to source noncompliance. 40 CFR 50.14(b) states that the EPA shall exclude data from use in determinations of exceedances and NAAQS violations where a state demonstrates to the EPA's satisfaction that an exceptional event caused a specific air pollution concentration in excess of one or more NAAQS at a particular air quality monitoring location and otherwise satisfies the requirements of section 50.14. Table 3 below includes some values between 98 μg/m^3 and 155 μg/m^3 that were excluded for the sole purpose of determining PM_{10} LMP eligibility in accordance with the LMP guidance.[10] Supporting documentation of EPA's concurrence with the wildfire related events can be found in the docket.[11]

TABLE 2—SUMMARY OF 24-HOUR PM_{10} DESIGN CONCENTRATIONS (μg/m^3) FOR THOMPSON FALLS

[Based on data from Thompson Falls HS Site, AQS Identification Number (30–089–0007)]

Design concentration years	Design concentration (μg/m^3)
2015–2017	100
2016–2018	88
2017–2019	70
2018–2020	66

Average Design Concentration (of Most Recent 3 Design Concentrations) 75 μg/m^3.

[10] See Update on Application of the Exceptional Events Rule to the PM_{10} Limited Maintenance Plan Option, US EPA, William T. Harnett, Director, Air Quality Policy Division, OAQPS, May 7, 2009 and Additional Methods, Determinations, and Analyses to Modify Air Quality Data Beyond Exceptional Events, US EPA, Richard Wayland, Director, Air Quality Assessment Division and Anna Marie Wood, Director, Air Quality Policy Division, April 4, 2019 memos in docket.

[11] February 8, 2019 letter to MDEQ, Re: Exceptional Events Requests Regarding Exceedances of the 24-hour PM_{10} NAAQS and the LMP Eligibility Threshold at Montana Monitoring Sites with PM_{10} Nonattainment Areas; and November 1, 2018 letter to MDEQ, Re: Request for EPA concurrence on exceptional event claims for fine ($PM_{2.5}$) and coarse (PM_{10}) particulate matter data impacted by wildfires in 2015 and 2016. See Thompson Falls, MT submission in docket; and additional information on 2020 data can be found in the docket for this action, document titled: Montana 2020 PM_{10} Letter.

TABLE 3—THOMPSON FALLS 24-HOUR PM_{10} EVENTS EXCLUDED FROM THE 2015–2020 DATA FOR THE PURPOSE OF DETERMINING LMP ELIGIBILITY

[Based on data from Thompson Falls HS Site, AQS Identification Number (30–089–0007)]

Date	24-hour value (μg/m^3)
8–14–2016	105
8–24–2015	117
8–26–2015	135
8–27–2015	122
8–29–2015	143
8–30–2016	135
9–6–2017	251
9–7–2017	231
9–8–2017	249
9–9–2017	100
9–12–2020	168
9–13–2020	206
9–14–2020	185
9–15–2020	148
9–16–2020	103
9–17–2020	107
9–18–2020	99

Values between 98 μg/m^3 and 155 μg/m^3 were excluded by EPA solely for the purpose of determining limited maintenance plan (LMP) eligibility in accordance with LMP guidance. The values remain in AQS and are still used for all other purposes (including calculating the estimated exceedances and official design concentrations).

The ADC for the 24-hour PM_{10} NAAQS for Thompson Falls, based on data from the SLAMS monitor for the years 2016–2020 is 75 μg/m^3. This value falls below the presumptive 24-hour CDV of 98 μg/m^3 and would meet the first threshold for LMP eligibility.

In addition to having an ADC that is below the presumptive or area specific CDV, and in order to qualify for the LMP, the area must meet the motor vehicle regional emissions analysis test in attachment B of the LMP Option memo. Using the methodology outlined in the memo, the data presented in the State submission in section 3.2 and based on monitoring data for the period 2016–2020, the EPA has determined that the Thompson Falls NAA has a projected design concentration of 79 μg/m^3 after 10 years, attributable to motor vehicle emission growth. This value is below the presumptive 24-hour CDV of 98 μg/m^3 and therefore passes the motor vehicle regional emissions analysis test. For the detailed calculations used to determine how the Thompson Falls NAA passed the motor vehicle regional analysis test, see the supporting documents in the docket.[12]

[12] See memo to file in docket dated January 10, 2022 titled ''Memo to File—Thompson Falls, MT Motor Vehicle Regional Emissions Analysis.''

The State's submission demonstrated that the 2015–2019 monitoring data shows that Thompson Falls has attained the 24-hour NAAQS for PM_{10}, and the 24-hour ADC for the area is less than the 24-hour PM_{10} presumptive and area-specific CDV. The data presented in this action demonstrates that the 2016–2020 data show that Thompson Falls has attained the 24-hour NAAQS for PM_{10}, and the 24-hour ADC for the area is less that the 24-hour PM_{10} presumptive CDV of 98 μg/m^3. Finally, the area has met the regional vehicle emissions analysis test for both the 2015–2019 and 2016–2020 periods of monitoring data. Thus, the Thompson Falls NAA qualifies for the LMP Option described in the LMP Option memo. The LMP Option memo also indicates that once a state selects the LMP Option and it is in effect, the state will be expected to determine, on an annual basis, that the LMP criteria are still being met. If a state determines that the LMP criteria are not being met, it should take action to reduce PM_{10} concentrations enough to requalify for the LMP. One possible approach a state could take is to implement contingency measures. Please see section 3.6 of the Thompson Falls LMP for a description of contingency provisions submitted as part of the State's submittal.

G. Does the state have an approved attainment emissions inventory which can be used to demonstrate attainment of the NAAQS?

A state's approved attainment plan should include an emissions inventory (attainment inventory) which can be used to demonstrate attainment of the NAAQS. The inventory should represent emissions during the same 5-year period associated with air quality data used to determine whether the area meets the applicability requirements of the LMP Option. A state should review its inventory every 3 years to ensure emissions growth is incorporated in the attainment inventory if necessary. In this instance, Montana completed an attainment year inventory for the attainment year 2017 for the Thompson Falls NAA. The EPA has reviewed the 2017 emissions inventories and determined that they are current, accurate and complete. In addition, the emissions inventory submitted with the LMP for the calendar year 2017 is representative of the level of emissions during the time period used to calculate the ADC since 2017 is included in the 5-year period used to calculate the design concentrations (2015–2019).

H. Does the LMP include an assurance of continued operation of an appropriate EPA-approved air quality monitoring network, in accordance with 40 CFR Part 58?

The PM_{10} monitoring network for the Thompson Falls NAA has been developed and maintained in accordance with federal siting and design criteria in 40 CFR part 58, appendices D and E and in consultation with the EPA Region 8. In section 3.5 of the Thompson Falls LMP, Montana states that it will continue to operate its monitoring network to meet EPA requirements.

I. Does the plan meet the CAA requirements for contingency provisions for maintenance plans?

Section 175A of the CAA states that a maintenance plan must include contingency provisions, as necessary, to promptly correct any violation of the NAAQS which may occur after redesignation of the area to attainment. As explained in the LMP Option memo, these contingency measures do not have to be fully adopted at the time of redesignation. As noted above, CAA section 175A requirements are distinct from CAA section 172(c)(9) contingency measures. Section 3.6 of the Thompson Falls LMP describes a process and timeline to identify and evaluate appropriate contingency measures in the event of a quality assured violation of the PM_{10} NAAQS. Upon notification of a PM_{10} exceedance in any of the three areas, the MDEQ and the appropriate local government will develop contingency measures designed to prevent or correct a violation of the PM_{10} standard. This process will be completed within twelve months of the exceedance notification. Upon violating the PM_{10} standard, the MDEQ and local government will determine if the local contingency measures will be adequate to prevent further exceedances or violations. If the agencies determine that local measures will be inadequate, the MDEQ and local government will adopt State-enforceable measures.

The current and proposed contingency provisions in the Thompson Falls LMP meet the requirements for contingency provisions as outlined in the LMP Option memo.

IV. Conformity and the LMP Option

Section 176(c) of the CAA requires the conformity of federal actions to the air quality goals of an NAA or maintenance area. Such federal actions include actions on transportation plans, programs and projects developed, funded, or approved by federal agencies or by recipients of federal funds, as well as more general actions receiving federal assistance or approval. Conformity of these two types of actions is known, respectively, as ''transportation conformity'' and ''general conformity.'' The purpose of conformity is to ensure that such federal actions will not produce new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS. The EPA's transportation and general conformity rules are found in 40 CFR part 93, subparts A and B, respectively.

The transportation conformity rule generally requires a demonstration that emissions from the relevant projects of a transportation plan and transportation improvement program covering a designated area are consistent with the motor vehicle emissions budget (MVEB or 'budget') contained in the SIP or maintenance plan for that area. The MVEB is the level of mobile source emissions of a pollutant relied upon in the attainment or maintenance demonstration to attain or maintain the NAAQS in the NAA or maintenance area.

Under the transportation conformity rule, designated areas meeting the criteria for the LMP Option will not be required to satisfy the rule's regional emissions analysis requirements (40 CFR 93.109(e)). When the EPA approves an LMP, we are concluding that it is unreasonable to expect that the qualifying area will experience sufficient growth during the maintenance period that a violation of the PM_{10} NAAQS would result. Therefore, the EPA is concluding with an LMP approval that the area's budget is essentially not constraining for the duration of the maintenance period and a regional emissions analysis will not be necessary to demonstrate conformity.

However, because LMP areas are still maintenance areas, approval of a Thompson Falls LMP does not remove certain transportation conformity rule requirements for transportation plans, programs, and projects. As an isolated rural maintenance area, the Thompson Falls area will generally be subject to the requirements of 40 CFR 93.109(g), as modified by the requirements for LMP areas in 40 CFR 93.109(e). Specifically, state transportation plans, transportation improvement programs and transportation projects still must demonstrate that they are fiscally constrained (30 CFR 93.108), are still subject to consultation requirements (40 CFR 93.112), and projects must not interfere with the implementation of any transportation control measures from the applicable implementation plan (40 CFR 93.113).

Approval of the LMP option would have similar implications with respect to general conformity. Federal actions subject to general conformity in an LMP area will not be required to satisfy the budget test requirement of the general conformity rule. Such federal actions are presumed to conform under the LMP option as emissions budgets in such areas are essentially not constraining for the duration of the maintenance period.

V. Environmental Justice Concerns

To identify potential environmental burdens and susceptible populations in the Thompson Falls NAA, EPA performed a screening-level analysis using the EPA's EJSCREEN tool to evaluate environmental and demographic indicators within the area. The tool outputs are contained in the docket for this action. The results indicate that within the Thompson Falls NAA, the EJ index for the National-Scale Air Toxics Assessment (NATA) for diesel particulate matter is at the 81st percentile compared to the rest of the State and results indicate a low-income population of 58%, as compared to the State average of 34% for Montana. These populations may be vulnerable and subject to disproportionate impacts within the meaning of the executive orders described above. Further, as the EJSCREEN analysis is a screening-level assessment and not an in-depth review, it is possible that there are other vulnerable groups within the Thompson Falls NAA.

As to all vulnerable groups within the Thompson Falls NAA, as explained above, we believe that this action will be beneficial and will tend to reduce impacts as this action, if finalized, addresses a plan for continued attainment of the PM_{10} NAAQS for the Thompson Falls NAA. When the EPA establishes a new or revised NAAQS, the CAA requires the EPA to designate all areas of the U.S. as either nonattainment, attainment, or unclassifiable. If an area is designated nonattainment for a NAAQS, the state must develop a plan outlining how the area will attain and maintain the standard by reducing air pollutant emissions. In this action we are proposing to approve the LMP for the Thompson Falls NAA and the State's request to redesignate the Thompson Falls NAA from nonattainment to attainment for the 1987 24-hour PM_{10} NAAQS. Approval of the LMP will contribute to the ongoing protection of those residing, working, attending school, or otherwise present in those areas, and we propose to determine that this action, if finalized, will not have disproportionately high or adverse

human health or environmental effects on communities with environmental justice concerns.

VI. Proposed Action

For the reasons explained in section III., we are proposing to approve the LMP for the Thompson Falls NAA and the State's request to redesignate the Thompson Falls NAA from nonattainment to attainment for the 1987 24-hour PM_{10} NAAQS. Additionally, the EPA is proposing to determine that the Thompson Falls NAA has attained the NAAQS for PM_{10}. This determination is based upon monitored air quality data for the PM_{10} NAAQS during the years 2014–2020. The EPA is proposing to approve the Thompson Falls LMP as meeting the appropriate transportation conformity requirements found in 40 CFR part 93, subpart A.

VII. Statutory and Executive Order Reviews

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

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

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

List of Subjects

40 CFR Part 52

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

40 CFR Part 81

Environmental protection, Air pollution control, National parks, and Wilderness areas.

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

Dated: February 28, 2022.

KC Becker,

Regional Administrator, Region 8.

[FR Doc. 2022–04759 Filed 3–7–22; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R08–OAR–2021–0808; FRL–9595–01–R8]

Air Plan Approval; Montana; Whitefish PM_{10} Nonattainment Area Limited Maintenance Plan and Redesignation Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to fully approve the Limited Maintenance Plan (LMP) submitted by the State of Montana to EPA on August 6, 2021, for the Whitefish Moderate nonattainment area (NAA) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM_{10}) and concurrently redesignate the NAA to attainment for the 24-hour PM_{10} National Ambient Air Quality Standard (NAAQS). In order to approve the LMP and redesignation, EPA is proposing to determine that the Whitefish NAA has attained the 1987 24-hour PM_{10} NAAQS of 150 $\mu g/m^3$. This determination is based upon monitored air quality data for the PM_{10} NAAQS during the years 2015–2020. EPA is taking this action pursuant to the Clean Air Act (CAA).

DATES: Written comments must be received on or before April 7, 2022.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–OAR–2021–0808 to the Federal Rulemaking Portal: *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *www.regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www2.epa.gov/dockets/commenting-epa-dockets.*

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically in *www.regulations.gov.* To reduce the risk of COVID–19 transmission, for this action we do not

plan to offer hard copy review of the docket. Please email or call the person listed in the **FOR FURTHER INFORMATION CONTACT** section if you need to make alternative arrangements for access to the docket.

FOR FURTHER INFORMATION CONTACT: Kate Gregory, Air and Radiation Division, U.S. Environmental Protection Agency (EPA), Region 8, Mail Code 8P–ARD–QP, 1595 Wynkoop Street, Denver, Colorado 80202–1129, telephone number: (303) 312–6175, email address: *gregory.kate@epa.gov.*

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

I. Background

Description of the Whitefish NAA

The Whitefish NAA is in Flathead County and is in the northwest corner of the Flathead Valley, with the Whitefish range of mountains on the north and east sides of the small, rural, city of Whitefish and the Salish mountains to the west. The EPA promulgated the PM_{10} National NAAQS on July 1, 1987 (52 FR 24634). The Whitefish NAA was originally designated as a Group III area on July 1, 1987 (52 FR 24634), meaning, at that time, there was a strong likelihood the Whitefish NAA would attain the PM_{10} NAAQS and, therefore, needed only adjustments to their preconstruction permit review program and monitoring network. However, on July 16, 1992, the Administrator of EPA, Region 8 notified the Governor of Montana that EPA believed that the area around Whitefish should be redesignated as nonattainment for PM_{10} and subsequently the Whitefish NAA was classified as Moderate for the 1987 24-hour PM_{10} NAAQS on November 18, 1993 (58 FR 53886).[1] Within 18 months of this Moderate designation, by May 18, 1995, Montana was required to submit to EPA a Moderate NAA State Implementation Plan (SIP) for the Whitefish NAA containing, among other requirements, provisions to assure that reasonably available control measures (RACM), including reasonably available control technologies (RACT), are implemented and a demonstration as to whether it was practicable to attain the PM_{10} NAAQS by December 31, 2000 (57 FR 13498 (April 16, 1992).[2]

The State of Montana submitted an initial PM_{10} SIP to EPA on June 26, 1997, and a subsequent submission on June 13, 2000. EPA approved both the June 26, 1997 and the June 13, 2000 PM_{10} SIP submissions for the Whitefish initial control plan on April 24, 2008 (73 FR 22057). The State of Montana's SIP for the Whitefish Moderate NAA included but was not limited to a comprehensive emissions inventory, RACM (implemented by November 18, 1997), a demonstration that attainment of the PM_{10} NAAQS would be achieved in Whitefish by December 31, 2000; Reasonable Further Progress (RFP) requirements and control measures that satisfy the contingency measures requirement of section 172(c)(9) of the CAA. The EPA fully approved the Whitefish NAA PM_{10} attainment plan on April 24, 2008 (73 FR 22057).

II. Requirements for Redesignation

A. CAA Requirements for Redesignation of NAAs

NAAs can be redesignated to attainment after the area has measured air quality data showing it has attained the NAAQS and when certain planning requirements are met. Section 107(d)(3)(E) of the CAA, and the General Preamble to Title I provide the criteria for redesignation. *See* 57 FR 13498 (April 16, 1992). These criteria are further clarified in a policy and guidance memorandum from John Calcagni, Director, Air Quality Management Division, EPA Office of Air Quality Planning and Standards dated September 4, 1992, ''Procedures for Processing Requests to Redesignate Areas to Attainment.'' [3] The criteria for redesignation are:

(1) The Administrator has determined that the area has attained the applicable NAAQS;

(2) The Administrator has fully approved the applicable SIP for the area under section 110(k) of the CAA;

(3) The state containing the area has met all requirements applicable to the area under section 110 and part D of the CAA;

(4) The Administrator has determined that the improvement in air quality is due to permanent and enforceable reductions in emissions; and

(5) The Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A of the CAA.

B. The LMP Option for PM_{10} NAAs

On August 9, 2001, the EPA issued guidance on streamlined maintenance plan provisions for certain moderate PM_{10} NAAs seeking redesignation to attainment (Memo from Lydia Wegman, Director, Air Quality Standards and Strategies Division, entitled ''Limited Maintenance Plan Option for Moderate PM_{10} Nonattainment Areas,'' (hereafter the LMP Option memo)).[4] The LMP Option memo contains a statistical demonstration to show that areas meeting certain air quality criteria will, with a high degree of probability, maintain the standard 10 years into the future. Thus, the EPA has already provided the maintenance demonstration for areas meeting the criteria outlined in the LMP Option memo. It follows that future year emission inventories for these areas, and some of the standard analyses to determine transportation conformity with the SIP are no longer necessary.

To qualify for the LMP Option, the area should have attained the 1987 24-hour PM_{10} NAAQS, based upon the most recent 5 years of air quality data at all monitors in the area, and the 24-hour design concentration should be at or below the ''Critical Design Value'' (CDV). The CDV is a calculated design concentration that indicates that the area has a low probability (1 in 10) of exceeding the NAAQS in the future. For the purposes of qualifying for the LMP option, a presumptive CDV of 98 $\mu g/m^3$ is most often employed, but an area may elect to use a site-specific CDV should the average design concentration (ADC) be above 98 $\mu g/m^3$, while demonstrating that the area has a low probability of exceeding the NAAQS in the future. The annual PM_{10} standard was effectively revoked on December 18, 2006 (71 FR 61143), and as such will not be discussed as a requirement for qualifying for the LMP option. In addition, the area should expect only limited growth in on-road motor vehicle PM_{10} emissions (including fugitive dust) and should have passed a motor vehicle regional emissions analysis test. The LMP Option memo also identifies core provisions that must be included in the LMP. These provisions include an attainment year emissions inventory, assurance of continued operation of an EPA-approved air quality monitoring network, and contingency provisions.

[1] See p. 64 of document titled FR–1993–10–19.pdf in docket for 58 FR 53886.

[2] *See also* 57 FR 18070 (April 28, 1992) and 66 FR 55102 (November 1, 2001).

[3] The ''Procedures for Processing Requests to Redesignate Areas to Attainment'' (Calcagni memo) outlines the criteria for redesignation (see docket for memo).

[4] The ''Limited Maintenance Plan Option for Moderate PM_{10} Nonattainment Areas'' outlines the criteria for development of a PM_{10} limited maintenance plan (see docket for memo).

III. Review of Montana's Submittal Addressing the Requirements for Redesignation and Limited Maintenance Plan

A. Has the Whitefish NAA attained the applicable NAAQS?

States must demonstrate that an area has attained the 24-hour PM_{10} NAAQS through analysis of ambient air quality data from an ambient air monitoring network representing peak PM_{10} concentrations. The data should be stored in the EPA Air Quality System (AQS) database. The request for redesignation of the Whitefish PM_{10} NAA submitted by the State of Montana presented data and analyses to demonstrate that the area attained the PM_{10} standard using 2015–2019 data. The redesignation request excluded two values in 2018 that it believed would be removed from the dataset prior to this action, but those values have not been concurred on as exceptional events and were included in the EPA's data and analyses presented in this action. In addition to reviewing the 2015–2019 data the EPA included 2020 PM_{10} data in this action (as it is currently the most recent year of certified data present in AQS) to confirm that the area is still attaining the 24-hour PM_{10} NAAQS. Additionally, preliminary 2021 data indicates the area continues to attain.

Today, EPA is proposing to determine that the Whitefish NAA has attained the PM_{10} NAAQS based on monitoring data from calendar years 2015–2020. The 24-hour standard is attained when the expected number of 24-hour average concentrations above 150 $\mu g/m^3$ (averaged over a 3-year period) is less than or equal to one. *See* 40 CFR 50.6(a). A minimum of three complete and consecutive years of air quality data are generally necessary to show attainment of the standard. *See* 40 CFR part 50, appendix K. A complete year of air quality data, as referred to in 40 CFR part 50, appendix K, is comprised of all four calendar quarters with each quarter containing data from at least 75% of the scheduled sampling days.

The Whitefish NAA has one State and Local Air Monitoring Station (SLAMS) PM_{10} monitor, Whitefish Dead End (AQS ID 30–029–0009), operated by the Montana Department of Environmental Quality (MDEQ). Table 1 summarizes the PM_{10} data collected from 2015–2020 for the Whitefish NAA.[5] The EPA deems the data collected from these monitors valid, and the data have been submitted and certified by the MDEQ to be included in AQS.

TABLE 1—SUMMARY OF MAXIMUM 24-HOUR PM_{10} CONCENTRATIONS ($\mu g/m^3$), DESIGN CONCENTRATIONS ($\mu g/m^3$), AND NUMBER OF EXCEEDANCES FOR WHITEFISH 2015–2020

Year	Maximum concentration	Design concentration[6]	Number of exceedances excluding regionally concurred exceptional events[7]
2015	135	122	0
2016	105	122	0
2017	153	131	0
2018	188	135	1
2019	86	135	0
2020	145	136	0

The CAA allows for the exclusion of air quality monitoring data from design value calculations when there are exceedances caused by exceptional events, including for expected number exceedances for PM_{10} averaged over a 3-year period, that meet the criteria for an exceptional event identified in the EPA's implementing regulations, the Exceptional Events Rule at 40 CFR 50.1, 50.14, and 51.930. For the purposes of this proposed action, on November 23, 2021, the State of Montana submitted exceptional event demonstrations to request exclusion of data impacted by wildfires. The EPA evaluated the State of Montana's exceptional event demonstrations for the flagged values of the 24-hour PM_{10} listed in Table 3 below in the Whitefish Moderate NAA, with respect to the requirements of EPA's Exceptional Events Rule (40 CFR 50.1, 50.14, and 50.930).

On January 25, 2022, EPA concurred with the State of Montana's requests to exclude event-influenced data listed in Table 3 finding that the State of Montana's demonstration met the Exceptional Event Rule criteria. As such, the event-influenced data have been removed from the data set used for regulatory purposes. For this proposed action, EPA relies on the PM_{10} concentrations reported at the Whitefish monitoring site which showed only one exceedance from 2015–2020 when exceptional events are excluded. Therefore, the expected number of days with 24-hour average concentrations above 150 $\mu g/m^3$ averaged over a 3-year period is less than one, and as such, the EPA proposes to determine that the Whitefish NAA has attained the standard for the 24-hour PM_{10} NAAQS.[8]

Additionally, the EPA concurred on the State of Montana's request to exclude PM_{10} data listed in Table 3 in regulatory decisions. For further information, refer to the State of Montana's Exceptional Event demonstration packages and the EPA's concurrence and analyses located in the docket for this proposed action.

B. Does the Whitefish NAA have a fully approved SIP under CAA section 110(k)?

In order to qualify for redesignation, the SIP for the area must be fully approved under CAA section 110(k) and must satisfy all requirements that apply

[5] While the submission from the State for this action includes 2015–2019 monitoring data, EPA provided 2020 monitoring data in this action in order to provide an analysis of PM_{10} concentrations in the Whitefish, NAA area using the most current monitoring data available.

[6] The design concentrations are calculated using three years of data and the ''Table Look-up'' method described in the ''PM_{10} SIP Development Guideline'', EPA–450/2–86–001, June 1987.

[7] Exceedances in 2017 and 2020 have been flagged and concurred on as exceptional events. Additional information on 2017 data can be found in Appendix A, p. a–1, of the submission by the state in the docket of this action and additional information on 2020 data can be found in the docket for this action, document titled: Montana 2020 PM_{10} Letter.

[8] Please see section III(F) of this action for further discussion and description of exceptional events in the Whitefish NAA during the 2015–2020 time period.

to the area. Section 189 of the CAA contains requirements and milestones for all initial Moderate NAA SIPs including: (1) Provisions to assure that RACM (including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of RACT shall be implemented no later than December 10, 1993; (2) A demonstration (including air quality modeling) that the plan will provide for attainment as expeditiously as practicable by no later than December 31, 1994, or, where the state is seeking an extension of the attainment date under section 188(e), a demonstration that attainment by December 31, 1994, is impracticable and that the plan provides for attainment by the most expeditious alternative date practicable (CAA sections 189(a)(1)(A)); (3) Quantitative milestones which are to be achieved every 3 years and which demonstrate RFP toward attainment by December 31, 1994, (CAA sections 172(c)(2) and 189(c)); and (4) Contingency measures to be implemented if the area fails to make RFP or attain by its attainment deadline. These contingency measures are to take effect without further action by the state or the EPA (CAA section 172(c)(9)).

The EPA fully approved the Whitefish NAA PM_{10} attainment plan on April 24, 2008 (73 FR 22057). The Whitefish plan included RACM, an attainment demonstration, emissions inventory, quantitative milestones, and control and contingency measure requirements. As such, the area has a fully approved NAA SIPs under section 110(k) of the CAA.

C. Has the state met all applicable requirements under section 110 and part D of the CAA?

Section 107(d)(3)(E) of the CAA requires that a state containing a NAA must meet all applicable requirements under section 110 and Part D of the CAA for an area to be redesignated to attainment. The EPA interprets this to mean that the state must meet all requirements that applied to the area prior to, and at the time of, the submission of a complete redesignation request. The following is a summary of how Montana meets these requirements.

1. CAA Section 110 Requirements

Section 110(a)(2) of the CAA contains general requirements for SIPs. These requirements include, but are not limited to, submittal of a SIP that has been adopted by a state after reasonable notice and public hearing, provisions for establishment and operation of appropriate apparatus, methods, systems and procedures necessary to monitor ambient air quality, implementation of a permit program, provisions for Part C—Prevention of Significant Deterioration (PSD) and Part D—New Source Review (NSR) permit programs, criteria for stationary source emission control measures, monitoring and reporting, provisions for modeling and provisions for public and local agency participation. See the General Preamble for further explanation of these requirements. *See* 57 FR 13498 (April 16, 1992).

For purposes of redesignation, the EPA's review of the Montana SIP shows that the State has satisfied all requirements under section 110(a)(2) of the CAA. Further, in 40 CFR 52.1372, the EPA has approved Montana's plan for the attainment and maintenance of the national standards under section 110.

2. Part D Requirements

Part D contains general requirements applicable to all areas designated nonattainment. The general requirements are followed by a series of subparts specific to each pollutant. All PM_{10} NAAs must meet the general provisions of Subpart 1 and the specific PM_{10} provisions in Subpart 4, ''Additional Provisions for Particulate Matter Nonattainment Areas.'' The following paragraphs discuss these requirements as they apply to the Whitefish NAA.

3. Subpart 1, Section 172(c)

Subpart 1, section 172(c) contains general requirements for NAA plans. A thorough discussion of these requirements may be found in the General Preamble. *See* 57 FR 13538 (April 16, 1992). CAA section 172(c)(2) requires nonattainment plans to provide for RFP. Section 171(1) of the CAA defines RFP as ''such annual incremental reductions in emissions of the relevant air pollutant as are required by this part (part D of title I) or may reasonably be required by the Administrator for the purpose of ensuring attainment of the applicable national ambient air quality standard by the applicable date.'' Since EPA is proposing to determine that the Whitefish NAA is in attainment of the PM_{10} NAAQS, we believe that no further showing of RFP or quantitative milestones is necessary.

4. Section 172(c)(3)—Emissions Inventory Section

Section 172(c)(3) of the CAA requires a comprehensive, accurate, current inventory of actual emissions from all sources in the Whitefish PM_{10} NAA. Montana included an emissions inventory for the calendar year 2017 with the August 6, 2021 submittal of the LMP for the NAA. The LMP Option memo states that an attainment inventory should represent emissions during the same 5-year period associated with the air quality data used to determine that the area meets the applicability requirements of the LMP option. The Whitefish LMP includes an emission inventory from 2017, representative of the 2015–2019 5-year period which served as the 5-year period relied upon in the LMPs as meeting the air quality data requirements of the LMP option memo.[9]

5. Section 172(c)(5)—NSR

The 1990 CAA Amendments contained revisions to the NSR program requirements for the construction and operation of new and modified major stationary sources located in NAAs. The CAA requires states to amend their SIPs to reflect these revisions but does not require submittal of this element along with the other SIP elements. The CAA established June 30, 1992, as the submittal date for the revised NSR programs (section 189 of the CAA).

Montana has a fully approved nonattainment NSR program, approved on September 18, 1995 (60 FR 36715). Montana also has a fully approved PSD program, approved on September 18, 1995 (60 FR 36715). Upon the effective date of redesignation of an area from nonattainment to attainment, the requirements of the Part D NSR program will be replaced by the PSD program and the maintenance area NSR program.

6. Section 172(c)(7)—Compliance With CAA Section 110(a)(2): Air Quality Monitoring Requirements

Once an area is redesignated, the state must continue to operate an appropriate air monitoring network in accordance with 40 CFR part 58 to verify attainment status of the area. The State of Montana operates one PM_{10} SLAMS in each of the NAAs. The Whitefish monitoring site meets EPA SLAMS network design and siting requirements set forth at 40 CFR part 58, appendices D and E. In section 3.5 of the LMP that we are

[9] The emissions inventory included in the Whitefish MT submission is the 2017 National Emissions Inventory (NEI). The NEI is a composite of data from many different sources, with PM data coming primarily from EPA models as well as from state, tribal, and local air quality management agencies. Different data sources use different data collection methods, and many of the emissions data are based on estimates rather than actual measurements. The EPA considers the 2017 NEI representative of the period from 2015–2019 because MT provided comparable vehicle miles traveled (VMT) data in their submission. *See* Whitefish, MT Submission, Appendix C, Montana Department of Transportation Future VMT Projections, p.C–1 in docket.

proposing to approve, the State commits to continued operation of the monitoring network.

7. Section 172(c)(9)—Contingency Measures

The CAA requires that contingency measures take effect if the area fails to meet RFP requirements or fails to attain the NAAQS by the applicable attainment date. Since the Whitefish NAA has attained the 1987 24-hour PM_{10} NAAQS, contingency measures are no longer required under section 172(c)(9) of the CAA. However, contingency provisions are required for maintenance plans under section 175(a)(d). We describe the contingency provisions Montana provided in the LMP section below.

8. Part D, Subpart 4

Part D subpart 4, section 189(a), (c) and (e) requirements apply to any Moderate NAA before the area can be redesignated to attainment. The requirements which were applicable prior to the submission of the request to redesignate the area must be fully approved into the SIP before redesignating the area to attainment. These requirements include: (a) Provisions to assure that RACM was implemented by December 10, 1993; (b) Either a demonstration that the plan provided for attainment as expeditiously as practicable but not later than December 31, 1994, or a demonstration that attainment by that date was impracticable; (c) Quantitative milestones which were achieved every 3 years and which demonstrate RFP toward attainment by December 31, 1994; and (d) Provisions to assure that the control requirements applicable to major stationary sources of PM_{10} also apply to major stationary sources of PM_{10} precursors except where the Administrator determined that such sources do not contribute significantly to PM_{10} levels which exceed the NAAQS in the area. These provisions were fully approved into the SIP upon the EPA's approval of the PM_{10} Moderate area plan for the Whitefish NAA on March 22, 1995 (60 FR 15056).

D. Has the state demonstrated that the air quality improvement is due to permanent and enforceable reductions?

A state must be able to reasonably attribute the improvement in air quality to permanent and enforceable emission reductions. In making this showing, a state must demonstrate that air quality improvements are the result of actual enforceable emission reductions. This showing should consider emission rates, production capacities, and other related information. The analysis should assume that sources are operating at permitted levels (or historic peak levels) unless evidence is presented that such an assumption is unrealistic. Permanent and enforceable control measures in the Whitefish NAA SIP includes RACM. Emission sources in the NAA have been implementing RACM for at least 10 years.

Areas that qualify for the LMP will meet the NAAQS, even under worst case meteorological conditions. Under the LMP option, the maintenance demonstration is presumed to be satisfied if an area meets the qualifying criteria. Thus, by qualifying for the LMP, Montana has demonstrated that the air quality improvements in the Whitefish NAA is the result of permanent emission reductions and not a result of either economic trends or meteorology. A description of the LMP qualifying criteria and how the Whitefish area meets these criteria is provided in the following section.

Permanent and enforceable emission reductions in the Whitefish NAA have reduced emissions since the 1993 baseline year. The primary controls incorporated into the SIP included reducing fugitive dust emissions from roads, parking lots, construction and demolition projects, and barren ground as well as stipulations on industrial emissions. Additionally, the approved control plan satisfied the requirements for RACM of area sources. Based on the 2017 national emissions inventory, PM_{10} emissions in all source areas are below the levels approved in the original control plan.[10]

E. Does the area have a fully approved maintenance plan pursuant to section 175A of the CAA?

In this action, we are proposing to approve the LMP for the Whitefish NAA in accordance with the principles outlined in the LMP Option.

F. Has the state demonstrated that the Whitefish NAA qualifies for the LMP Option?

The LMP Option memo outlines the requirements for an area to qualify for the LMP Option. First, the area should be attaining the NAAQS. As stated above in section III.A., the EPA has determined that the Whitefish NAA is attaining the PM_{10} NAAQS.

Second, the ADC for the past 5 years of monitoring data (2015–2019) must be at or below the CDV and the area must meet the motor vehicle regional emissions analysis test in attachment B of the LMP Option memo. As noted in section II.B., the CDV is a margin of safety value and is the value at which an area has been determined to have a 1 in 10 probability of exceeding the NAAQS. The LMP Option memo provides two methods for review of monitoring data for the purpose of qualifying for the LMP option. The first method is a comparison of a site's ADC with the CDV of 98 $\mu g/m^3$ for the 24-hour PM_{10} NAAQS. A second method that applies to the 24-hour PM_{10} NAAQS is the calculation of a site-specific CDV and a comparison of the site-specific CDV with the ADC for the past 5 years of monitoring data. Table 2 below outlines the design concentrations for the years 2015–2020 and presents the ADC.

Table 3 summarizes the wildfire related events that were excluded from the calculated design concentrations in Table 2. Table 3 includes all regionally concurred exceptional events, as well as values between 98 $\mu g/m^3$ and 155 $\mu g/m^3$, which were treated in a manner analogous to exceedance data under the Exceptional Events Rule for the purpose of determining the LMP option eligibility. The values between 98 $\mu g/m^3$ and 155 $\mu g/m^3$ remain in the AQS database for use in calculating design concentration for every purpose besides determining LMP eligibility.[11] The Exceptional Events Rule can be found in 40 CFR 50.14 and 40 CFR 51.930, and outlines the requirements for the treatment of monitored air quality data that has been heavily influenced by an exceptional event. 40 CFR 50.1(j) defines an exceptional event as an event which affects air quality, is not reasonably controllable or preventable, is an event caused by human activity that is unlikely to recur at a particular location or a natural event and is determined by the Administrator in accordance with 40 CFR 50.14 to be an exceptional event. Exceptional events do not include stagnation of air masses or meteorological inversions, meteorological events involving high temperatures or lack of precipitation, or air pollution relating to source noncompliance. 40 CFR 50.14(b) states that the EPA shall exclude data from use in determinations of exceedances and NAAQS violations where a state demonstrates to the EPA's satisfaction that an exceptional event caused a specific air pollution concentration in excess of one or more NAAQS at a

[10] See Whitefish, MT submission in docket, Table 2.4—Whitefish, MT—PM_{10} Emission Summary, p. 2–5.

[11] Update on Application of the Exceptional Events Rule to the PM_{10} Limited Maintenance Plan Option, US EPA, William T. Harnett, Director, Air Quality Policy Division, OAQPS, May 7, 2009.

particular air quality monitoring location and otherwise satisfies the requirements of section 50.14. Table 3 below includes some values between 98 μg/m³ and 155 μg/m³ that were excluded for the sole purpose of determining PM_{10} LMP eligibility in accordance with the LMP guidance.[12] Supporting documentation of EPA's concurrence with the wildfire related events can be found in the docket.[13]

TABLE 2—SUMMARY OF 24-HOUR PM_{10} DESIGN CONCENTRATIONS (μg/m³) FOR WHITEFISH

Based on data from Whitefish Dead End, AQS Identification Number (30–029–0009)

Design concentration years	Design concentration (μg/m³)
2015–2017	118
2016–2018	98
2017–2019	91
2018–2020	103

Average Design Concentration (Of Most Recent 3 Design Concentrations) 97 μg/m³.

TABLE 3—WHITEFISH 24-HOUR PM_{10} EVENTS EXCLUDED FROM THE 2015–2020 DATA FOR THE PURPOSE OF DETERMINING LMP ELIGIBILITY

Based on data from Whitefish Dead End Site, AQS Identification Number (30–029–0009)

Date	24-Hour value (μg/m³)
8/20/2015	128
8/21/2015	131
8/24/2015	122
8/25/2015	106
8/27/2015	118
8/28/2015	110
8/29/2015	104
9/4/2017	153
9/5/2017	122
9/6/2017	143
9/7/2017	212
9/8/2017	215
9/9/2017	130
9/13/2020	145
9/14/2020	172
9/15/2020	139

TABLE 3—WHITEFISH 24-HOUR PM_{10} EVENTS EXCLUDED FROM THE 2015–2020 DATA FOR THE PURPOSE OF DETERMINING LMP ELIGIBILITY—Continued

Based on data from Whitefish Dead End Site, AQS Identification Number (30–029–0009)

Date	24-Hour value (μg/m³)
9/18/2020	100

Values between 98 μg/m³ and 155 μg/m³ were excluded by EPA solely for the purpose of determining limited maintenance plan (LMP) eligibility in accordance with LMP guidance. The values remain in AQS and are still used for all other purposes (including calculating the estimated exceedances and official design concentrations).

The ADC for the 24-hour PM_{10} NAAQS for Whitefish, based on data from the SLAMS monitor for the years 2016–2020 is 97 μg/m³. This value falls just below the presumptive 24-hour CDV of 98 μg/m³ but leaves very little room for any growth under the motor vehicle regional emissions analysis test. Therefore, an area-specific CDV is necessary. Using design concentrations from 2009 through 2020 and the methodology outlined in the LMP memo, the EPA calculates the area-specific CDV at 130 μg/m³. This area-specific CDV was used for the remaining calculations in this action.

In addition to having an ADC that is at the presumptive or area-specific CDV, and in order to qualify for the LMP, the area must meet the motor vehicle regional emissions analysis test in attachment B of the LMP Option memo. Using the methodology outlined in the memo, the data presented in the State's submission in section 3.2 and based on monitoring data for the period 2016–2020, the EPA has determined that the Whitefish NAA has a projected design concentration of 119 μg/m³ after 10 years, attributable to motor vehicle emission growth. This value is below the area-specific 24-hour CDV of 130 μg/m³ and therefore passes the motor vehicle regional emissions analysis test. For the detailed calculations used to determine how the Whitefish NAA passed the motor vehicle regional analysis test, see the supporting documents in the docket.[14]

Using the most recent 5 years of data (2016–2020), the analyses in this section of the action demonstrates that the Whitefish NAA has attained the 24-hour NAAQS for PM_{10}, that the 24-hour ADC for the area is less that the area-specific 24-hour PM_{10} CDV of 130 μg/m³, and the area has met the regional vehicle emissions analysis test. Thus, the Whitefish NAA qualifies for the LMP Option described in the LMP Option memo. The LMP Option memo also indicates that once a state selects the LMP Option and it is in effect, the state will be expected to determine, on an annual basis, that the LMP criteria are still being met. If a state determines that the LMP criteria are not being met, it should take action to reduce PM_{10} concentrations enough to requalify for the LMP. One possible approach a state could take is to implement contingency measures. Please see section 3.6 of the Whitefish LMP for a description of contingency provisions submitted as part of the State's submittal.

G. Does the state have an approved attainment emissions inventory which can be used to demonstrate attainment of the NAAQS?

A state's approved attainment plan should include an emissions inventory (attainment inventory) which can be used to demonstrate attainment of the NAAQS. The inventory should represent emissions during the same 5-year period associated with air quality data used to determine whether the area meets the applicability requirements of the LMP Option. A state should review its inventory every 3 years to ensure emissions growth is incorporated in the attainment inventory if necessary. In this instance, Montana completed an attainment year inventory for the attainment year 2017 for the Whitefish NAA. The EPA has reviewed the 2017 emissions inventories and determined that they are current, accurate and complete. In addition, the emissions inventory submitted with the LMP for the calendar year 2017 is representative of the level of emissions during the time period used to calculate the ADC since 2017 is included in the 5-year period used to calculate the design concentrations (2015–2019).

H. Does the LMP include an assurance of continued operation of an appropriate EPA-approved air quality monitoring network, in accordance with 40 CFR part 58?

The PM_{10} monitoring network for the Whitefish NAA has been developed and maintained in accordance with federal siting and design criteria in 40 CFR part 58, appendices D and E and in consultation with the EPA Region 8. In section 3.5 of the Whitefish LMP, Montana states that it will continue to operate its monitoring network to meet EPA requirements.

[12] See Update on Application of the Exceptional Events Rule to the PM_{10} Limited Maintenance Plan Option, US EPA, William T. Harnett, Director, Air Quality Policy Division, OAQPS, May 7, 2009 and Additional Methods, Determinations, and Analyses to Modify Air Quality Data Beyond Exceptional Events, US EPA, Richard Wayland, Director, Air Quality Assessment Division and Anna Marie Wood, Director, Air Quality Policy Division, April 4, 2019 memos in docket.

[13] February 8, 2019 letter to MDEQ, Re: Exceptional Events Requests Regarding Exceedances of the 24-hour PM_{10} NAAQS and the LMP Eligibility Threshold at Montana Monitoring Sites with PM_{10} Nonattainment Areas; and November 1, 2018 letter to MDEQ, Re: Request for EPA concurrence on exceptional event claims for fine ($PM_{2.5}$) and coarse (PM_{10}) particulate matter data impacted by wildfires in 2015 and 2016. See Whitefish, MT submission in docket.

[14] See memo to file in docket dated January 10, 2022 titled ''Memo to File—Whitefish, MT Motor Vehicle Regional Emissions Analysis.''

I. Does the plan meet the CAA requirements for contingency provisions for maintenance plans?

Section 175A of the CAA states that a maintenance plan must include contingency provisions, as necessary, to promptly correct any violation of the NAAQS which may occur after redesignation of the area to attainment. As explained in the LMP Option memo, these contingency measures do not have to be fully adopted at the time of redesignation. As noted above, CAA section 175A requirements are distinct from CAA section 172(c)(9) contingency measures. Section 3.6 of the Whitefish LMP describes a process and timeline to identify and evaluate appropriate contingency measures in the event of a quality assured violation of the PM_{10} NAAQS. Upon notification of a PM_{10} exceedance in any of the three areas, the MDEQ and the appropriate local government will develop contingency measures designed to prevent or correct a violation of the PM_{10} standard. This process will be completed within twelve months of the exceedance notification. Upon violating the PM_{10} standard, the MDEQ and local government will determine if the local contingency measures will be adequate to prevent further exceedances or violations. If the agencies determine that local measures will be inadequate, the MDEQ and local government will adopt State-enforceable measures.

The current and proposed contingency provisions in the Whitefish LMP meet the requirements for contingency provisions as outlined in the LMP Option memo.

IV. Conformity and the LMP Option

Section 176(c) of the CAA requires the conformity of federal actions to the air quality goals of an NAA or maintenance area. Such federal actions include actions on transportation plans, programs and projects developed, funded, or approved by federal agencies or by recipients of federal funds, as well as more general actions receiving federal assistance or approval. Conformity of these two types of actions is known, respectively, as ''transportation conformity'' and ''general conformity.'' The purpose of conformity is to ensure that such federal actions will not produce new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS. The EPA's transportation and general conformity rules are found in 40 CFR part 93, subparts A and B, respectively.

The transportation conformity rule generally requires a demonstration that emissions from the relevant projects of a transportation plan and transportation improvement program covering a designated area are consistent with the motor vehicle emissions budget (MVEB or 'budget') contained in the SIP or maintenance plan for that area. The MVEB is the level of mobile source emissions of a pollutant relied upon in the attainment or maintenance demonstration to attain or maintain the NAAQS in the NAA or maintenance area.

Under the transportation conformity rule, designated areas meeting the criteria for the LMP Option will not be required to satisfy the rule's regional emissions analysis requirements (40 CFR 93.109(e)). When the EPA approves an LMP, we are concluding that it is unreasonable to expect that the qualifying area will experience sufficient growth during the maintenance period that a violation of the PM_{10} NAAQS would result. Therefore, the EPA is concluding with an LMP approval that the area's budget is essentially not constraining for the duration of the maintenance period and a regional emissions analysis will not be necessary to demonstrate conformity.

However, because LMP areas are still maintenance areas, approval of a Whitefish LMP does not remove certain transportation conformity rule requirements for transportation plans, programs, and projects. As an isolated rural maintenance area, the Whitefish area will generally be subject to the requirements of 40 CFR 93.109(g), as modified by the requirements for LMP areas in 40 CFR 93.109(e). Specifically, state transportation plans, transportation improvement programs and transportation projects still must demonstrate that they are fiscally constrained (30 CFR 93.108), are still subject to consultation requirements (40 CFR 93.112), and projects must not interfere with the implementation of any transportation control measures from the applicable implementation plan (40 CFR 93.113).

Approval of the LMP option would have similar implications with respect to general conformity. Federal actions subject to general conformity in an LMP area will not be required to satisfy the budget test requirement of the general conformity rule. Such federal actions are presumed to conform under the LMP option as emissions budgets in such areas are essentially not constraining for the duration of the maintenance period.

V. Environmental Justice Concerns

To identify potential environmental burdens and susceptible populations in the Whitefish NAA, EPA performed a screening-level analysis using the EPA's EJSCREEN tool to evaluate environmental and demographic indicators within the area. The tool outputs are contained in the docket for this action. The results indicate that the Whitefish NAA is not a potential area of EJ concern and is not a candidate for further EJ review.[15]

When the EPA establishes a new or revised NAAQS, the CAA requires the EPA to designate all areas of the U.S. as either nonattainment, attainment, or unclassifiable. If an area is designated nonattainment of the NAAQS, the CAA provides for the EPA to redesignate the area to attainment upon a demonstration by the state authority that the criteria for a redesignation are met, including a showing that air quality is attaining the NAAQS and will continue to maintain the NAAQS in order to ensure that all those residing, working, attending school, or otherwise present in those areas are protected. This action addresses a plan for continued attainment of the PM_{10} NAAQS for the Whitefish NAA. Approval of this plan does not impose any additional regulatory requirements on sources beyond those imposed by state law. As discussed in this document, Montana has demonstrated that the air quality in the Whitefish NAA is attaining the PM_{10} NAAQS and will ensure continued attainment of the NAAQS. For these reasons, this action does not result in disproportionately high and adverse human health or environmental effects on communities with environmental justice concerns.

VI. Proposed Action

For the reasons explained in section III., we are proposing to approve the LMP for the Whitefish NAA and the State's request to redesignate the Whitefish NAA from nonattainment to attainment for the 1987 24-hour PM_{10} NAAQS. Additionally, the EPA is proposing to determine that the Whitefish NAA has attained the NAAQS for PM_{10}. This determination is based upon monitored air quality data for the PM_{10} NAAQS during the years 2014–2020. The EPA is proposing to approve the Whitefish LMP as meeting the appropriate transportation conformity requirements found in 40 CFR part 93, subpart A.

[15] Region 8, EPA considers an area a ''potential EJ area'' or ''potential area of EJ concern'', and a candidate for further review, if any of the following criteria are met: The area is in the 80th percentile or above for any EJ index when compared to the nation, region, or state, the percentage of Low-income population in the area exceeds the state average for the state in which the area exist and the percentage of People of Color population in the area exceeds the state average for the state in which the area exists.

VII. Statutory and Executive Order Reviews

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

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

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

List of Subjects

40 CFR Part 52

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

40 CFR Part 81

Environmental protection, Air pollution control, National parks, and Wilderness areas.

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

Dated: February 28, 2022.

K.C. Becker,

Regional Administrator, Region 8.

[FR Doc. 2022–04758 Filed 3–7–22; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Part 68

[Docket No. NIH–2020–0001]

RIN 0925–AA68

National Institutes of Health Loan Repayment Programs

AGENCY: National Institutes of Health, HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Health and Human Services (HHS or Department), through the National Institutes of Health (NIH), proposes to update the existing regulation for NIH Loan Repayment Programs (LRPs) to reflect the consolidation of NIH LRPs into two programs, the Intramural Loan Repayment Program (for NIH researchers) and the Extramural Loan Repayment Program (for non-NIH researchers); the direct authority of the NIH Director to administer the NIH LRPs (formerly the duty of the Secretary, HHS); and the increase in the annual loan repayment amount from a maximum of $35,000 to a maximum of $50,000.

DATES: Comments must be received on or before May 9, 2022.

ADDRESSES: You may send comments, identified by Docket Number NIH–2020–0001and/or RIN 0925–AA43, by any of the following methods:

Electronic Submissions

You may send comments electronically in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov/.* Follow the instructions for sending comments.

Written Submissions

You may send written comments in the following ways:

Please allow enough time for mailed comments to be received before the close of the comment period.

- *Mail (for paper or CD–ROM submissions):* Daniel Hernandez, NIH Regulations Officer, National Institutes of Health, Office of Management Assessment, Rockledge 1, 6705 Rockledge Drive, Suite 601, Room 601–T, MSC 7901, Bethesda, Maryland 20892–7901.
- *Hand delivery/courier (for paper or CD–ROM submissions):* Daniel Hernandez, Rockledge 1, 6705 Rockledge Drive, Suite 601, Room 601–T, MSC 7901, Bethesda, Maryland 20892–7901.

Instructions: All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this rulemaking. All comments will be posted without change to *https://www.regulations.gov/,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to the eRulemaking Portal at *https://www.regulations.gov/* and insert the docket number provided in brackets in the heading on page one of this document into the: ''Search'' box and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Daniel Hernandez, NIH Regulations Officer, Office of Management Assessment, NIH, Rockledge 1, 6705 Rockledge Drive, Suite 601, Room 601–T, MSC 7901, Bethesda, Maryland 20892–7901, by email *dhernandez@od.nih.gov,* or by telephone 301–435–3343 (not a toll-free number) for information about the rulemaking process. For program information contact: Matthew Lockhart, NIH Division of Loan Repayment, by email *matthew.lockhart@nih.gov,* or telephone 866–849–4047. Information regarding the requirements, application deadline dates, and an on-line application for the NIH Loan Repayment Programs may be obtained from the NIH Loan Repayment Program website *https://www.lrp.nih.gov/.*

SUPPLEMENTARY INFORMATION:

I. Background and Statutory Authority

The purpose of the NIH LRP programs is to recruit and retain highly qualified health professionals as biomedical and behavioral researchers. The programs offer educational loan repayment for participants who agree, by written contract, to engage in qualifying domestic non-profit supported research at a qualifying non-NIH institution, or as an NIH employee for a minimum of two years (or three years for the Intramural LRP's general research subcategory).

On December 13, 2016, Congress enacted the 21st Century Cures Act, Public Law (Pub. L.) 114–255, Section 2022 of which amended the Public Health Service (PHS) Act to authorize the consolidation of National Institutes of Health Loan Repayment Programs (LRPs) into the Intramural Loan Repayment Program and the Extramural Loan Repayment Program.

The legislation also provides the NIH Director with the authority to establish or eliminate one or more subcategories of the LRPs to reflect workforce or scientific needs related to biomedical research. Thus, this statute allows for up to four subcategories for the Intramural Loan Repayment Program (General, Acquired Immunodeficiency Syndrome (AIDS), Clinical for Researchers from Disadvantaged Backgrounds, and one additional subcategory) and up to six subcategories for the Extramural Loan Repayment Program (Contraception & Infertility, Pediatric, Clinical, Health Disparities, Clinical for Researchers from Disadvantaged Backgrounds, and one additional subcategory).

Furthermore, the 21st Century Cures Act provides the NIH Director with direct authority to administer the NIH Loan Repayment Programs (formerly the duty of the Secretary, HHS).

Finally, the legislation authorizes NIH to raise its annual loan repayment amount to a maximum of $50,000, which reflects a change from the previous maximum annual loan repayment amount of $35,000.

The PHS Act, as amended, now contains sections 487A (Intramural loan repayment program; 42 U.S.C. 288–1) and 487B (Extramural loan repayment program; 42 U.S.C. 288–2), with the removal of previous sections 464z-5, 487C, 487E, and 487F by the 21st Century Cures Act. Sections 487A and 487B of the PHS Act authorize the NIH Director to enter into contracts with qualified health professionals under which such professionals agree to conduct research in consideration of the Federal Government agreeing to repay, for each year of such service, not more than $50,000 of the principal and interest of the qualified educational loans of such professionals. In return for these loan repayments, applicants must agree to participate in qualifying research for an initial period of not less than two years (or a minimum of three years for the Intramural LRP's general research subcategory), as one of the following: (1) An NIH employee (for Intramural LRP), or (2) A health professional engaged in qualifying research supported by a domestic non-profit foundation, non-profit professional association, or other non-profit institution (*e.g.,* university), or a U.S. or other government agency (Federal, State or local).

II. Summary of Proposed Changes

With this notice of proposed rulemaking (NPRM), we propose to update the existing regulation for NIH LRPs codified at 42 CFR part 68, and titled National Institutes of Health Loan Repayment Programs, to reflect the changes in NIH LRPs that resulted from enactment of the 21st Century Cures Act.

Specifically, we propose to amend the authority citation by adding the United States Code (U.S.C.) citation 42 U.S.C. 216 and removing U.S.C. citations 42 U.S.C. 254o, 42 U.S. C. 288–3, 42 U.S.C. 288–5, 42 U.S.C. 288–5a, 42 U.S.C. 288–6, and 42 U.S.C.285t–2.

We propose to amend § 68.1 by removing the references to sections 487C, 487E, 487F and 464z–5 of the Public Health Service Act (PHS Act), and references to U.S.C. citations 42 U.S.C. 288–3, 42 U.S.C. 288–5, 42 U.S.C. 288–5a, 42 U.S.C. 288–6, and 42 U.S.C. 285t–2; and by revising the last sentence of the introductory narrative to indicate that the NIH Loan Repayment Programs include two separate programs, the Intramural Loan Repayment Program (for NIH researchers) and the Extramural Loan Repayment Program (for non-NIH researchers). Additionally, we propose to amend paragraphs (a) and (b) by revising them and their respective subparagraphs in their entirety to reflect that there are currently two NIH LRPs, the Intramural LRP with up to four subcategories and the Extramural LRP with up to six subcategories.

We propose to amend § 68.2 by removing the term ''Secretary,'' adding the term ''Research in Emerging Areas Critical to Human Health,'' and revising the term ''Nonprofit funding/support to read ''Nonprofit research funding/support.'' We further propose to amend § 68.2 by revising the definitions for ''Debt threshold,'' ''Director,'' ''Educational expenses,'' ''Extramural LRPs,'' ''Intramural LRP,'' ''Loan repayment programs,'' ''Participant,'' ''Program eligibility date,'' ''Qualified Educational Loans and Interest/Debt,'' ''Reasonable educational and living expenses,'' ''Repayable debt,'' and ''Waiver.''

We propose to amend § 68.5 by revising paragraph (d) to state that for Extramural LRPs only, individuals who receive any salary support or participate in research that receives funding support from a for-profit institution or organization, or Federal Government employees working more than 20 hours per week are ineligible to participate.

We propose to amend § 68.6 by removing the word ''Secretary'' and adding in its place the words ''NIH Director.''

We propose to amend § 68.7 by revising paragraph (d)(2)(iii) to state that for the minority health disparities subcategory, at least 50 percent of the contracts are required by statute to be for appropriately qualified health professionals who are members of a health disparity population.

We propose to amend § 68.8 by revising paragraph (a) to state that NIH may pay up to $50,000 per year of a participant's repayable debt rather than the previous $35,000 per year.

We propose to amend § 68.12 by removing the word ''Secretary'' and adding the words ''NIH Director'' in its place.

The purpose of this NPRM is to invite public comment concerning these proposed actions. We provide the following as public information.

Regulatory Impact Analysis

We have examined the impacts of this proposed rule under Executive Order (E.O.) 12866, Regulatory Planning and Review; E.O. 13563, Improving Regulation and Regulatory Review; E.O. 13132, Federalism; the Regulatory Flexibility Act (5 U.S.C. 601–612); and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

Executive Orders 12866 and 13563

E.O. 12866 and E.O. 13563 direct Federal 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) for all significant regulatory actions. A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any one year). Based on our analysis, we believe that the proposed rulemaking does not

constitute an economically significant regulatory action.

Executive Order 13132

E.O. 13132, Federalism, requires Federal agencies to consult with State and local government officials in the development of regulatory policies with federalism implications. We reviewed the rule as required under the Order and determined that it does not have any federalism implications. This rule will not have effect on the States or on the distribution of power and responsibilities among the various levels of government.

Regulatory Flexibility Act

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of the rule on small entities. For the purpose of this analysis, small entities include small business concerns as defined by the Small Business Administration (SBA), usually businesses with fewer than 500 employees. Applicants who are eligible to apply for the loan repayment awards are individuals, not small entities. This rule will not create a significant impact on a significant number of small entities.

Unfunded Mandates Reform Act of 1995

Section 202(a) of the Unfunded Mandates Reform Act of 1995 requires Federal agencies 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 organizations, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation with base year of 1995) in any one year.'' The current inflation-adjusted statutory threshold is approximately $156 million based on the Bureau of Labor Statistics inflation calculator. This rule will not result in a one-year expenditure that would meet or exceed that amount. Participation in the NIH loan repayment programs is voluntary and not mandated.

Paperwork Reduction Act

This proposed rule does not contain any new information collection requirements which are subject to Office of Management and Budget (OMB) approval under the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). More specifically, § 68.6 is a reporting requirement, but the specifics of the burden are determined in the approved application forms used by the NIH Loan Repayment Programs and have been separately approved by OMB under OMB No. 0925–0361 (expires October 31, 2022). Additionally, §§ 68.3(c) and (e), 68.11(c), 68.14(c) and (d), and 68.16(a) are reporting requirements and/or recordkeeping requirements, but they also are covered under OMB No. 0925–0361.

Federal Assistance Listings

The Federal Assistance Listings numbered programs affected by this proposed rule are:

93.220—NIH Intramural Loan Repayment Program
93.280—NIH Extramural Loan Repayment Program

List of Subjects in 42 CFR Part 68

Health professions; Loan programs—health; Medical research.

For reasons presented in the preamble, the Department of Health and Human Services proposes to amend title 42 of the Code of Federal Regulations by revising Part 68, as set forth below.

PART 68—NATIONAL INSTITUTES OF HEALTH (NIH) LOAN REPAYMENT PROGRAMS (LRPs)

■ 1. Revise the authority citation for part 68 to read as follows:

Authority: 42 U.S.C. 216, 42 U.S.C. 288–1, 42 U.S.C. 288–2.

■ 2. Revise § 68.1 to read as follows:

§ 68.1 What are the scope and purpose of the NIH LRPs?

The regulations of this part apply to the award of educational loan payments authorized by sections 487A and 487B of the Public Health Service Act, as amended (42 U.S.C. 288–1, 42 U.S.C. 288–2). The purpose of these programs is to address the need for biomedical and behavioral researchers by providing an economic incentive to appropriately qualified health professionals who are engaged in qualifying research supported by domestic nonprofit funding or as employees of NIH. The NIH Loan Repayment Programs include two separate programs, the Intramural Loan Repayment Program (for NIH researchers) and the Extramural Loan Repayment Program (for non-NIH researchers).

(a) The Intramural LRP includes subcategories that focus on:

(1) General research, including a program for Accreditation Council for Graduate Medical Education (ACGME) Fellows;

(2) Research on acquired immune deficiency syndrome;

(3) Clinical research conducted by appropriately qualified health professionals who are from disadvantaged backgrounds; and

(4) An area of emerging scientific or workforce need.

(b) The Extramural LRP includes subcategories that focus on:

(1) Contraception or infertility research;

(2) Pediatric research, including pediatric pharmacological research;

(3) Minority health disparities research;

(4) Clinical research;

(5) Clinical research conducted by health professionals from disadvantaged backgrounds; and

(6) Research in emerging areas critical to human health.

■ 3. Amend § 68.2 by:

■ a. Revising the definitions for ''Debt threshold'', ''Director'', ''Educational expense'', ''Extramural LRPs'', ''Individual from disadvantaged background'', ''Intramural LRPs'', ''Loan repayment programs (LRPs)'', and ''Loan Repayment Program contract'';

■ b. Removing the term ''Nonprofit funding/support'' and adding in its place a definition for ''Nonprofit research funding/support'';

■ c. Revising the definitions of ''Participant'', ''Program eligibility date'', ''Qualified Educational Loans and Interest/Debt'', ''Reasonable educational and living expenses'', and ''Repayable debt'';

■ d. Adding a definition for ''Research in Emerging Areas Critical to Human Health'';

■ e. Removing the definition of ''Secretary''; and

■ f. Revising the definition of ''Waiver''.

The revisions and additions read as follows:

§ 68.2 Definitions.

* * * * *

Debt threshold means the minimum amount of qualified educational debt an individual must have, on their program eligibility date, in order to be eligible for LRP benefits, as established by the NIH Director.

Director means the Director of the National Institutes of Health (NIH) or designee.

Educational expenses pertain to costs associated with the pursuit of the health professional's undergraduate, graduate, and health professional school's education, including the tuition expenses and other educational expenses such as living expenses, fees, books, supplies, educational equipment and materials, and laboratory expenses.

Extramural LRPs refers to those programs for which health

professionals, who are not NIH employees and have program-specified degrees and domestic nonprofit support, are eligible to apply. The Extramural LRP includes subcategories that focus on:

(1) Contraception or infertility research;

(2) Pediatric research, including pediatric pharmacological research;

(3) Minority health disparities research;

(4) Clinical research;

(5) Clinical research conducted by appropriately qualified health professionals who are from disadvantaged backgrounds; and

(6) Research in emerging areas critical to human health.

* * * * *

Individual from disadvantaged background means:

(1) Comes from an environment that inhibited the individual from obtaining the knowledge, skill and ability required to enroll in and graduate from a health professions school; or

(2) Comes from a family with an annual income below a level based on low-income thresholds according to family size published by the U.S. Bureau of the Census, adjusted annually for changes in the Consumer Price Index, and adjusted by the Secretary of Health and Human Services (HHS) for use in HHS programs. The Secretary periodically publishes these income levels in the **Federal Register**.

* * * * *

Intramural LRPs refers to those programs for which applicants must be employed by the NIH. The Intramural LRP includes subcategories that focus on:

(1) General research, including a program for Accreditation Council for Graduate Medical Education (ACGME) Fellows;

(2) AIDS research;

(3) Clinical research conducted by appropriately qualified health professionals from disadvantaged backgrounds; and

(4) An area of emerging scientific or workforce need.

* * * * *

Loan Repayment Programs (LRPs) refers to the NIH Loan Repayment Programs, including those authorized by sections 487A and 487B of the Act, as amended.

Loan Repayment Program contract refers to the agreement signed by an applicant and the NIH Director (or an appointed designee). Under such an agreement, an Intramural LRP applicant agrees to conduct qualified research as an NIH employee, and an Extramural LRP applicant agrees to conduct qualified research supported by domestic nonprofit funding, in exchange for repayment of the applicant's qualified educational loan(s) for a prescribed period.

* * * * *

Nonprofit research funding/support: applicants must conduct qualifying research supported by a domestic nonprofit foundation, nonprofit professional association, or other nonprofit institution (*e.g.,* university), or a U.S. or other government agency (Federal, state or local). A domestic foundation, professional association, or institution is considered to be nonprofit if exempt from Federal tax under the provisions of Section 501 of the Internal Revenue Code (26 U.S.C. 501).

Participant means an individual whose application to any of the NIH LRPs has been approved and whose Program contract has been executed by the NIH Director or designee.

* * * * *

Program eligibility date means the date on which an individual's LRP contract is executed by the NIH Director or designee.

Qualified Educational Loans and Interest/Debt (see Educational Expenses) as established by the NIH Director, include Government and commercial educational loans and interest for:

(1) Undergraduate, graduate, and health professional school tuition expenses;

(2) Other reasonable educational expenses required by the school(s) attended, including fees, books, supplies, educational equipment and materials, and laboratory expenses; and

(3) Reasonable living expenses, including the cost of room and board, transportation and commuting costs, and other reasonable living expenses incurred.

Reasonable educational and living expenses means those educational and living expenses that are equal to or less than the sum of the school's estimated standard student budget for educational and living expenses for the degree program and for the year(s) during which the participant was enrolled in school. If there is no standard budget available from the school, or if the participant requests repayment for educational and living expenses that exceed the standard student budget, reasonableness of educational and living expenses incurred must be substantiated by additional contemporaneous documentation, as determined by the Secretary of HHS.

Repayable debt means the proportion, as established by the NIH Director, of an individual's total qualified educational debt that can be repaid by an NIH LRP.

Research in Emerging Areas Critical to Human Health refers to research designed to pursue major opportunities and gaps in biomedical research and expand research in emerging areas of human health. Emerging areas are considered new areas of biomedical and biobehavioral research where a critical mass of capability and expertise is still emerging across the biomedical and biobehavioral research community.

* * * * *

Waiver means a waiver of the service obligation granted by the NIH Director when compliance by the participant is impossible or would involve extreme hardship, or where enforcement with respect to the individual would be unconscionable. (See Breach of contract.)

* * * * *

■ 4. Amend § 68.5 by revising paragraph (d) to read as follows:

§ 68.5 Who is ineligible to participate?

* * * * *

(d) For Extramural LRPs only: Individuals who receive any salary support or participate in research that receives funding support from a for-profit institution or organization, or Federal Government employees working more than 20 hours per week;

* * * * *

■ 5. Revise § 68.6 to read as follows:

§ 68.6 How do individuals apply to participate in the NIH LRPs?

An application for participation in an NIH LRP shall be submitted to the NIH, which is responsible for the Program's administration, in such form and manner as the NIH Director prescribes.

■ 6. Amend § 68.7 by revising paragraph (d)(2)(iii) to read as follows:

§ 68.7 How are applicants selected to participate in the NIH LRPs?

* * * * *

(d) * * *

(2) * * *

(iii) For the Health Disparities Research subcategory, at least 50 percent of the contracts are required by statute to be for appropriately qualified health professionals who are members of a health disparity population.

■ 7. Amend § 68.8 by revising paragraph (a) to read as follows:

§ 68.8 What do the NIH LRPs provide to participants?

(a) Loan repayments: For each year of the applicable service period the individual agrees to serve, the NIH may pay up to $50,000 per year of a participant's repayable debt.

* * * * *

■ 8. Revise § 68.12 to read as follows:

§ 68.12 How does an individual receive loan repayments beyond the initial applicable contract period?

An individual may apply for a competitive extension contract for at least a one-year period if the individual is engaged in qualifying research and satisfies the eligibility requirements specified under §§ 68.3 and 68.4 of this part for the extension period and has remaining repayable debt as established by the NIH Director.

Xavier Becerra,

Secretary, Health and Human Services.

[FR Doc. 2022–04640 Filed 3–7–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 212, 225, and 252

[Docket DARS–2022–0003]

RIN 0750–AL18

Defense Federal Acquisition Regulation Supplement: United States-Mexico-Canada Agreement (DFARS Case 2020–D032)

Correction

In Proposed Rule document 2022–04009, appearing on pages 11002–11009, in the issue of Monday, February 28, 2022, make the following correction:

On page 11002, in the third column, after the **DATES** heading, in the third and fourth lines, ''May 27, 2022'' is corrected to read ''April 29, 2022''.

[FR Doc. C1–2022–04009 Filed 3–7–22; 8:45 am]

BILLING CODE 0099–10–D

Notices

Federal Register
Vol. 87, No. 45
Tuesday, March 8, 2022

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

March 3, 2022.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding; whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by April 7, 2022 will be considered. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain*. Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number, and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Animal and Plant Health Inspection Service

Title: Foreign Quarantine Notices.

OMB Control Number: 0579–0049.

Summary of Collection: The Plant Protection Act (PPA) (Title IV, Pub. L. 106–224, 114 Statute 438, 7 U.S.C. 7701 *et seq.*) grants the Secretary of Agriculture authority to prohibit or restrict the importation, entry, exportation, or movement in interstate commerce of plant pests and other articles when such actions prevent the introduction or dissemination of plant pests into or within the United States. Implementing the laws described above is necessary in order to prevent injurious plant and insect pests from entering the United States, a situation that could produce serious consequences for USDA.

Regulations and subsequent requirements authorized by the PPA concerning the importation of fruits, vegetables, plants for planting, logs, lumber, unprocessed wood products, cotton, corn, rice, sugar cane, and coffee, are contained in Parts 319 and 352 of Title 7, Code of Federal Regulations (CFR). They require APHIS to collect information from a variety of foreign governments, businesses, and individuals, both within and outside of the United States, and provide the basis for the APHIS Plant Protection and Quarantine (PPQ) program's foreign quarantine notices. On a quarterly basis, APHIS will submit a report to the Office of Management and Budget that documents the burden imposed by import requirements for commodities covered by this information collection (fruits, vegetables, plants for planting, logs, lumber, unprocessed wood products, cotton, corn, rice, sugar cane, and coffee) that have been finalized within that quarterly period.

Need and Use of the Information: APHIS will collect information such as operational workplans; cooperative service agreements; trust funds; production or processing site/facility registrations; foreign site certification of inspection and/or treatment; applications for permits; appeals of denial or revocation of permits; requests for additional mailing labels; compliance agreements; phytosanitary certificates; labeling; importer documents; agreements for post entry quarantine State screening notices; 30-day article notifications; requests for emergency transshipment or diversion; notices of arrival; emergency action notifications; and monitoring/recordkeeping from responsible entities. In addition, APHIS will collect required information from national plant protection organizations as part of the commodity import approval process.

Description of Respondents: Businesses, Individuals and Households, Federal Government and State Governments.

Number of Respondents: 22,315.

Frequency of Responses: Reporting, Recordkeeping, Third-Party Disclosure: On occasion.

Total Burden Hours: 712,982.

Animal and Plant Health Inspection Service

Title: Nomination Request Form; Animal Disease Training.

OMB Control Number: 0579–0353.

Summary of Collection: The Animal Health Protection Act of 2002 is the primary Federal law governing the protection of animal health. The law gives the Secretary of Agriculture broad authority to detect, control, eradicate pests or diseases of livestock or poultry. The Animal and Plant Health Inspection Service (APHIS') Veterinary Services (VS) is responsible for administering regulations intended to prevent the introduction of animal diseases into the United States. VS Professional People Training (PPT) provides training on responses to animal disease events, sample collection procedures, and disease mitigation and eradication activities to private veterinarians and State, Tribal, military, international, industry, and university personnel. The courses are designed to prepare participants for activities dealing with a U.S. animal disease incident.

Need and Use of the Information: VS collects information using VS Form 1–5 from private veterinarians as well as State, Tribal, military, international, university, and industry personnel who want to attend PDS animal disease training. PPT requires the applicants' work addresses, work telephone numbers, work email addresses, agency/organization affiliations, supervisors' names and email addresses, and job titles. PPT uses this information to produce participant rosters after participants select courses and during training to encourage ongoing working

relationships between course participants. Applicants submit the completed form (Web-based) before the PPT course date. The appropriate APHIS official selects applicants based on the need in their respective States for such trained personnel. VS Form 1–5 is subsequently sent to a PPT Program Specialist for processing.

Description of Respondents: Business or other for-profit; State, Local or Tribal Government.

Number of Respondents: 350.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 116.

Animal and Plant Health Inspection Service

Title: Citrus Canker, Citrus Greening, and Asian Citrus Psyllid; Quarantine and Interstate Movement Regulations.

OMB Control Number: 0579–0363.

Summary of Collection: The Plant Protection Act (7 U.S.C. 7701 *et* seq.) authorizes the Secretary of Agriculture either independently or in cooperation with the States, to carry out operations or measures to detect, eradicate, suppress, control, prevent, or retard the spread of plant pests (such as citrus canker) new or widely distributed throughout the United States. In the ''Domestic Quarantine Notices'' in 7 CFR part 301, hereafter referred to as the regulations, the subpart ''Citrus Canker'' (§§ 301.75 through 301.75–17) and ''Citrus Greening and Asian Citrus Psyllid'' (§§ 301.76 through 301.76–11) provide the regulatory guidance for the presence of citrus canker (CC), citrus greening (CG) and Asian citrus psyllid (ACP). The regulations contained in 7 CFR 301.75 and 301.76 restrict the interstate movement of regulated articles from and through areas quarantined because of CC, CG and ACP.

Need and Use of the Information: The Animal and Plant Health Inspection Service (APHIS) will collect information using the following activity to address the risk associated with the interstate movement of citrus nursery stock and other regulated articles from areas quarantined for citrus greening: Limit Permit (PPO Form 530), Federal Certificate (PPO Form 540), Compliance Agreement (PPO Form 519), Labeling Requirements, Recordkeeping, Appeal of Cancellation of Certificates, Permits, and Compliance Agreements, and Emergency Action Notification (PPO Form 523). Failing to collect this information could cause a severe economic loss to the citrus industry.

Description of Respondents: Business or other for-profit.

Number of Respondents: 1,395.

Frequency of Responses: Recordkeeping; Reporting: On occasion; Third Party Disclosure.

Total Burden Hours: 364,697.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2022–04906 Filed 3–7–22; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Office of the Chief Financial Officer

Notice of Intent To Extend and Revise a Currently Approved Information Collection

AGENCY: Office of the Chief Financial Officer, USDA.

ACTION: Notice and request for comments.

SUMMARY: This notice announces the intention of the Office of the Chief Financial Officer to request the renewal and revision of a currently approved information collection (OMB No. 0505–0025) associated with (1) Representations Regarding Felony Conviction and Tax Delinquent Status For Corporate Applicants and (2) Assurance Regarding Felony Conviction or Tax Delinquent Status For Corporate Applicants. The assurance information collection is no longer used.

DATES: Comments on this notice must be received by May 9, 2022 to be assured of consideration.

ADDRESSES: Comments may be submitted by either of the following methods:

- *Federal eRulemaking Portal:* This website permits short comments in a comment field on the web page or file attachments for lengthier comments. Go to *https://www.regulations.gov* for instructions.
- *Postal Mail/Commercial Delivery:* Attention: Tyson P. Whitney, Director, Transparency and Accountability Reporting Division, Office of the Chief Financial Officer, Room 3027–S, Mail Stop 9011, U.S. Department of Agriculture, 1400 Independence Avenue SW, Washington, DC 20250; *tyson.whitney@usda.gov.*

All comments will be available for public inspection and posted without change, including any personal information, to *https://www.regulations.gov.* Out of an abundance of caution for USDA employees and the public, onsite review is closed, with limited exceptions, to reduce the risk of COVID–19 transmission. However, remote customer service will continue via email at the contact information cited above. The public is encouraged to submit comments via *https://www.regulations.gov* or email, as there may be a delay in processing mail. Hand deliveries and couriers may be received by scheduled appointment only.

FOR FURTHER INFORMATION CONTACT: Tyson P. Whitney, Director, Transparency and Accountability Reporting Division, Office of the Chief Financial Officer, Room 3027–S, Mail Stop 9011, U.S. Department of Agriculture, 1400 Independence Avenue SW, Washington, DC 20250; 202–720–8978, *tyson.whitney@usda.gov.*

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) and Office of Management and Budget (OMB) regulations at 5 CFR part 1320, this notice announces the intention of the USDA Office of the Chief Financial Officer to request the renewal of a currently approved information collection (OMB No. 0505–0025) associated with (1) Representations Regarding Felony Conviction and Tax Delinquent Status For Corporate Applicants and (2) Assurance Regarding Felony Conviction or Tax Delinquent Status For Corporate Applicants. The assurance information collection is no longer used.

Title: (1) Representations Regarding Felony Conviction and Tax Delinquent Status For Corporate Clients and (2) Assurance Regarding Felony Conviction or Tax Delinquent Status For Corporate Applicants (no longer used).

OMB Number: 0505–0025.

Expiration Date of Current Approval: June 30, 2022.

Type of Request: Intent to extend and revise a currently approved information collection for three years.

Abstract: The U.S. Department of Agriculture's (USDA) agencies and staff offices must comply with the restrictions set forth in sections 744 and 745 of the Consolidated Appropriations Act, 2021, Public Law 116–260, as amended and/or subsequently enacted, hereinafter Public Law 116–260, which prevents agencies from doing business with corporations that (1) have been convicted of a felony criminal violation under Federal law within 24 months preceding the award and/or (2) have any unpaid Federal tax liability that has been assessed, for which all judicial administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; unless the agency or staff office has considered suspension or

debarment of the recipient corporation and made a determination that suspension or debarment is not necessary to protect the interests of the Government.

To comply with the appropriation restrictions, the information collection requires corporate applicants for USDA programs to represent accurately if they have or do not have qualifying felony convictions or tax delinquencies that would prevent entrance into proposed business transactions with USDA. For nonprocurement programs and transactions, these representations are collected on Form AD–3030 (Representations Regarding Felony Conviction and Tax Delinquent Status For Corporate Applicants. This notice and proposed renewal of an approved information collection deal only with USDA nonprocurement transactions. The categories of nonprocurement transactions covered include: Nonprocurement contracts, grants, loans, loan guarantees, cooperative agreements, and some memoranda of understanding/agreement. For more specific information about whether a particular nonprocurement program or transaction is included in this list please contact the USDA agency or staff office responsible for the program or transaction in question.

The representations continue to be required as reflected in Public Law 116–260. To ensure that USDA agencies and staff offices are positioned to continue compliance with the appropriation restrictions for their duration, the Office of the Chief Financial Officer is issuing this renewal approval notice for another formal three-year clearance of the information collection request. Should the appropriation restrictions become ineffective or not be continued during the three-year clearance period, this information request will be canceled when it is no longer required. This information is also captured in the General Services Administration's System for Award Management general certification and representation process.

Form AD–3030 (required during the application process) prompts compliance with the appropriation restrictions by requiring all corporate applicants to represent, at the time of application for a nonprocurement program, whether or not they have any felony convictions or tax delinquencies that would prevent USDA from doing business with them. Form AD–3031 (applicable at the time of the award) required an affirmative representation that corporate awardees for nonprocurement transactions do not have any felony convictions or tax delinquencies. It is no longer used.

Corporations (for profit and non-profit entities) include, but are not limited to, any entity that has filed articles of incorporation in one of the 50 States, the District of Columbia, or the various territories of the United States.

Collection of this information is necessary to ensure that USDA agencies and staff offices comply with the appropriation restrictions prohibiting the Government from doing business with corporations with felony convictions and/or tax delinquencies.

Estimate of Burden: Public reporting burden for this total collection of information is estimated to average 0.25 hours per response per individual form. This burden is assumed for both forms.

Frequency of Collection: Other: Corporations—AD–3030—each time they apply to participate in a multitude of USDA nonprocurement programs.

Type of Respondents: Corporate applicants for USDA nonprocurement programs, including grants, cooperative agreements, loans, loan guarantees, some memoranda of understanding/agreement, and nonprocurement contracts.

Estimated Number of Annual Respondents: 75,580.

Estimated Number of Responses per Respondent: 2.

Estimated Total Annual Burden on Respondents: 37,790.

Form	Number of respondents	Number of responses per respondent	Number of responses	Average time to prepare (hrs)	Total annual burden on respondents (hrs)
AD–3030	75,580	2	151,160	0.25	37,790
Total	75,580	2	151,160	0.25	37,790

Comments from interested parties are invited on: (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 including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. All responses to this notice will be summarized and included in the request for OMB approval.

Tyson P. Whitney,

Director, Transparency and Accountability Reporting Division.

[FR Doc. 2022–04842 Filed 3–7–22; 8:45 am]

BILLING CODE 3410–KS–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2022–0006]

Notice of Request for Revision to and Extension of Approval of an Information Collection; Horse Protection Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Revision to and extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request a revision to and extension of approval of an information collection associated with the Horse Protection Program and enforcement of the Horse Protection Act.

DATES: We will consider all comments that we receive on or before May 9, 2022.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov.* Enter APHIS–2022–0006 in the Search field. Select the Documents tab, then select the

Comment button in the list of documents.

• *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2022–0006, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *regulations.gov* or in our reading room, which is located in Room 1620 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For information on the Horse Protection Act Regulations, contact Dr. Lance Bassage, Director, National Policy Staff, Animal Care, APHIS 4700 River Road, Unit 84, Riverdale, MD 20737; (585) 944–1306. For information on the information collection reporting process, contact Mr. Joseph Moxey, APHIS' Paperwork Reduction Act Coordinator, at (301) 851–2483; *joseph.moxey@usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Horse Protection Regulations.

OMB Control Number: 0579–0056.

Type of Request: Revision to and extension of approval of an information collection.

Abstract: The Horse Protection Act (HPA) of 1970 (Pub. L. 91–540), as amended July 13, 1976 (Pub. L. 94–360), was enacted to prevent showing, exhibiting, selling, or auctioning of ''sore'' horses, and certain transportation of sore horses in connection therewith, at horse shows, horse exhibitions, horse sales, and horse auctions. ''Soring'' is a process whereby chemical or mechanical agents, or a combination thereof, are applied to the limbs(s) of a horse in order to exaggerate its gait(s). A ''sore'' horse is one that has been subjected to prohibited practices and, as a result, suffers, or can reasonably be expected to suffer, physical pain or distress, inflammation, or lameness when walking, trotting or otherwise moving. A horse that is ''sore'' is prohibited from entering or participating in HPA-regulated events because exhibitors, owners, and trainers of such horse may obtain unfair advantage over individuals exhibiting horses that are not ''sore.''

Section 1828 of the HPA authorizes the promulgation of regulations to implement the provisions of the Act. Those regulations are found in 9 CFR part 11. The regulations delineate procedures relative to three processes: (1) Certification of licensing programs for Designated Qualified Persons (DQPs) that are operated by Horse Industry Organizations (HIOs). Managers and operators of HPA-regulated events may appoint and retain the services of DQPs to inspect and detect a horse that is sore or otherwise noncompliant with the HPA; (2) responsibilities and liabilities of management; and (3) prohibitions and requirements concerning persons involved in transportation of certain horses.

An HIO wishing to certify a program to license DQPs to inspect horses for compliance under the HPA must satisfy and abide by the requirements of the HPA and regulations. After requesting and receiving U.S. Department of Agriculture certification from the Animal and Plant Health Inspection Service (APHIS), HIOs must maintain an acceptable DQP program and recordkeeping systems. The responsibilities of HIOs, DQPs, event management, and horse transporters are outlined in the regulations.

APHIS works with HIOs on an ongoing basis to oversee their performance under the HPA. Throughout the year, APHIS uses training sessions, conference calls, and open letters to HIOs, event managers, exhibitors, owners, trainers, custodians, and farriers involved in HPA-covered activities to provide communication and feedback to address issues and strengthen enforcement under the Act. Data collected throughout the year from within APHIS and from the HIOs and event management provide an account of the HIOs' performance and progress toward eliminating the soring of horses and promoting fair competition. HIOs, through their certified licensing programs for DQPs, provide the primary means of detecting sored horses.

The regulations in 9 CFR part 12 provide the Rules of Practice applicable to adjudicatory, administrative proceedings under § 1825(a), (b), and (c) of the HPA. Subpart A incorporates the Uniform Rules of Practice promulgated in subpart H of 7 CFR part 1. Subpart B sets forth Supplemental Rules of Practice allowing stipulations in settlement of particular matters if specified procedures are followed.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities, as described, for 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

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

(2) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; *e.g.,* permitting electronic submission of responses.

Estimate of burden: The public burden for this collection of information is estimated to average 1.17 hours per response.

Estimated annual number of respondents: 442.

Estimated annual number of responses per respondent: 6.

Estimated annual number of responses: 2,258.

Estimated total annual burden on respondents: 2,650 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 2nd day of March 2022.

Anthony Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2022–04791 Filed 3–7–22; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

[Docket ID: NRCS–2021–0006]

Urban Agriculture and Innovative Production Advisory Committee Virtual Meeting

AGENCY: Natural Resources Conservation Service (NRCS), United States Department of Agriculture (USDA).

ACTION: Notice of meeting.

SUMMARY: The Natural Resources Conservation Service (NRCS), U.S. Department of Agriculture (USDA), is announcing the first meeting of the Urban Agriculture and Innovative

Production Advisory Committee (UAIPAC). UAIPAC was established to advise the Secretary on the development of policies and outreach relating to urban, indoor, and other emerging agricultural production practices; and other aspects of the implementation of Section 12302 of the Agriculture Improvement Act of 2018 (2018 Farm Bill). UAIPAC will also develop recommendations and advise on policies, initiatives, and outreach administered by the Office of Urban Agriculture and Innovative Production (OUAIP); evaluate ongoing research and extension activities related to urban, indoor, and other innovative agricultural practices; identify new and existing barriers to successful urban, indoor, and other emerging agricultural production practices; and provide additional assistance and advice to OUAIP as appropriate.

DATES: *Virtual Meeting:* UAIPAC will meet via webinar on March 23 and 24, 2022 from 11:00 a.m. to 3:30 p.m. Eastern Time (ET).

Registration: To attend the meeting, you can register by Friday, March 18, 2022.

Comments: The deadline to sign up to present oral comments during the webinar, and submit your written comments is Friday, March 18, 2022.

ADDRESSES: *Comments:* We invite you to submit comments for the UAIPAC meeting. You may submit comments as follows:

- *Federal eRulemaking Portal:* go to *https://www.regulations.gov* docket ID NRCS–2021–0006 and follow the instructions for submitting comments.

UAIPAC website: The meeting webinar can be accessed via either the internet or phone; detailed access information will be available on the UAIPAC website prior to the meeting: *https://www.farmers.gov/urban.*

Registration: The public can register to attend the UAIPAC meeting at: *https://www.zoomgov.com/webinar/register/WN_sDAcexgNQQKuIEM3eRfNow.* Comments will be available for viewing online at *www.regulations.gov.* Comments received will be posted without change, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Leslie Glover; telephone: (602)395–9536; email: *UrbanAgricultureFederalAdvisoryCommittee@usda.gov.*

SUPPLEMENTARY INFORMATION:

UAIPAC Purpose

Section 12302 of the 2018 Farm Bill (Pub. L. 115–334) directs the Secretary of the USDA to establish an ''Urban Agriculture and Innovative Production Advisory Committee'' to advise the Secretary on the development of policies and outreach relating to urban, indoor, and other emerging agricultural production practices; and any other aspects of the implementation of section 222 of the Reorganization Act of 1994 (Pub. L. 103–354), as added by the 2018 Farm Bill. UAIPAC will advise the Secretary of Agriculture on the development of policies and outreach relating to urban, indoor, and other emerging agricultural production practices; and will further develop recommendations.

In addition, UAIPAC will advise the Director of the Office of Urban Agriculture and Innovative Production on policies, initiatives, and outreach administered by that office. UAIPAC will evaluate and review ongoing research and extension activities relating to urban, indoor, and other innovative agricultural practices; identify new and existing barriers to successful urban, indoor, and other emerging agricultural production practices; and provide additional assistance and provide advice to the Director as appropriate.

UAIPAC Webinar

The UAIPAC will hold the first meeting on March 23 and 24, 2022 The virtual meeting will be open to the public and will provide an opportunity for stakeholders to participate and present their views.

The agenda will include, but is not limited to, welcome; introductions; administrative matters; and consultation on the National Institute of Food and Agriculture's Notice of Funding Opportunity for the Urban, Indoor and Emerging Agriculture grant, pursuant to Section 7212 of the Agriculture Improvement Act of 2018. Please check the UAIPAC website for the latest agenda details 24 to 48 hours prior to Friday, March 18, 2022, via *http://www.farmers.gov/urban.*

Submitting Written Comments and Presenting Oral Comments

Comments should address specific topics pertaining to urban agriculture, innovative production, and USDA programs and services. Written public comments will be accepted on or before 11:59 p.m. ET on Friday, March 18, 2022, via *https://www.zoomgov.com/webinar/register/WN_sDAcexgNQQKuIEM3eRfNow.* UAIPAC will not have adequate time to consider any comments submitted after Friday, March 18, 2022, prior to the meeting.

UAIPAC is providing the public an opportunity to provide oral comments and will accommodate as many individuals and organizations as time permits. Persons or organizations wishing to make oral comments must pre-register by 11:59 p.m. ET, Friday, March 18, 2022, and may register for only one speaking slot. Instructions for registering and participating in the meeting can be obtained by contacting the person listed in the **FOR FURTHER INFORMATION CONTACT** section by or before the deadline.

Meeting Accommodations

If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpretation, assistive listening devices, or other reasonable accommodation, to the person listed under the **FOR FURTHER INFORMATION CONTACT** section. Determinations for reasonable accommodation will be made on a case-by-case basis.

Dated: March 3, 2022.

Cikena Reid,

Committee Management Officer, USDA.

[FR Doc. 2022–04859 Filed 3–7–22; 8:45 am]

BILLING CODE 3410–16–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Florida Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of virtual business meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act, that the Florida Advisory Committee (Committee) to the U.S. Commission on Civil Rights will hold a virtual business meeting via Webex at 2:00 p.m. ET on Friday, April 1, 2022. The purpose of the meeting is to debrief the web briefing on March 28, 2022, and plan for the web briefing on April 29, 2022.

DATES: The meeting will take place on Friday, April 1, 2022, from 2:00 p.m.–4:00 p.m. ET.

Link to Join (Audio/Visual): https://tinyurl.com/hn2tavj4.

Telephone (Audio Only): Dial (800) 360–9505 USA Toll Free; Access code: 2764 380 9664.

FOR FURTHER INFORMATION CONTACT: Mallory Trachtenberg, DFO, at *mtrachtenberg@usccr.gov* or (202) 809–9618.

SUPPLEMENTARY INFORMATION: Committee meetings are available to the

public through the conference link above. Any interested member of the public may listen to the meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. If joining via phone, callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Individuals who are deaf, deafblind, and hard of hearing may also follow the proceedings by first calling the Federal Relay Service at (800) 877–8339 and providing the Service with the conference details found through registering at the web link above. To request additional accommodations, please email *mtrachtenberg@usccr.gov* at least seven (7) business days prior to the meeting.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be emailed to Liliana Schiller at *lschiller@usccr.gov.* Persons who desire additional information may contact the Regional Programs Coordination Unit at (202) 809–9618.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Coordination Unit, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Florida Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Coordination Unit at the above phone number.

Agenda

I. Welcome & Roll Call
II. Discussion: Panel Debrief
III. Public Comment
IV. Next Steps
V. Adjournment

Dated: March 2, 2022.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2022–04840 Filed 3–7–22; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Florida Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of web briefings.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act, that the Florida Advisory Committee (Committee) to the U.S. Commission on Civil Rights will hold a series of web briefings at 2:00 p.m. ET on Monday, March 28, 2022, and Friday, April 29, 2022, to hear testimony regarding the civil rights implications of recent legislative changes to Florida's election laws, followed by access to early voting, and vote-by-mail procedures.

DATES: The briefings will take place via Webex on:

—Monday, March 28, 2022, from 2:00 p.m.–4:00 p.m. ET
- To join by web conference, register at *https://tinyurl.com/2p9ed5cx*
- To join by phone (audio only), dial (800) 360–9505 USA Toll Free; access code: 2762 199 2880

—Friday, April 29, 2022, from 2:00 p.m.–4:00 p.m. ET
- To join by web conference, register at *https://tinyurl.com/3vfnbpsr*
- To join by phone (audio only), dial (800) 360–9505 USA Toll Free; access code: 2760 579 0577

FOR FURTHER INFORMATION CONTACT: Mallory Trachtenberg, DFO, at *mtrachtenberg@usccr.gov* or (202) 809–9618.

SUPPLEMENTARY INFORMATION: Committee meetings are available to the public through the conference link above. Any interested member of the public may listen to the meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. If joining via phone, callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Individuals who are deaf, deafblind, and hard of hearing may also follow the proceedings by first calling the Federal Relay Service at (800) 877–8339 and providing the Service with the conference details found through registering at the web link above. To request additional accommodations, please email *mtrachtenberg@usccr.gov* at least seven (7) business days prior to the meeting.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be emailed to Liliana Schiller at *lschiller@usccr.gov.* Persons who desire additional information may contact the Regional Programs Coordination Unit at (202) 809–9618.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Coordination Unit, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Florida Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Coordination Unit at the above phone number.

Agenda

I. Welcoming Remarks
II. Panelist Presentations and Committee Q&A
III. Public Comment
IV. Closing Remarks
V. Adjournment

Dated: March 2, 2022.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2022–04837 Filed 3–7–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–041]

Truck and Bus Tires From the People's Republic of China: Preliminary Results of Countervailing Duty Administrative Review, Rescission of Review in Part, and Intent To Rescind in Part; 2020

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

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that certain exporters/producers of truck and bus tires from the People's Republic of China (China) received countervailable subsidies during the period of review (POR) from January 1, 2020, through December 31, 2020. In addition, we are rescinding the review with respect to seven companies and announcing our preliminary intent to rescind this review with respect to eight other companies. Interested parties are invited to comment on these preliminary results.

DATES: Applicable March 8, 2022.

FOR FURTHER INFORMATION CONTACT: Brontee Jeffries or Theodore Pearson, AD/CVD Operations, Enforcement and Compliance, International Trade

Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4656 or (202) 482–2631, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 1, 2021, Commerce published the notice of initiation of an administrative review of the countervailing duty (CVD) order on truck and bus tires from China.[1] On October 1, 2021, Commerce exercised its discretion to extend the preliminary results of this administrative review by 120 days, until February 25, 2022.[2]

For a complete description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.[3] A list of topics discussed in the Preliminary Decision Memorandum is included as the appendix to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Scope of the Order

The products covered by the order are truck and bus tires. For a complete description of the scope, *see* the Preliminary Decision Memorandum.[4]

Methodology

Commerce is conducting this administrative review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each subsidy program found countervailable, we preliminarily find that there is a subsidy, (*i.e.,* a government-provided financial contribution that gives rise to a benefit to the recipient, and that the subsidy is specific).[5] For a full description of the methodology underlying our conclusions, including our reliance, in part, on adverse facts available pursuant to sections 776(a) and (b) of the Act, *see* the Preliminary Decision Memorandum.

Rescission of Administrative Review, in Part

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if the parties that requested a review withdraw the request within 90 days of the date of publication of the notice of initiation. Commerce received timely-filed withdrawal requests with respect to the following seven companies: Double Coin Tyre Group (Shanghai) Imp & Exp Co., Ltd.; Giti Tire (Fujian) Company Ltd.; Giti Tire (Anhui) Company Ltd.; Giti Tire Global Trading Pte. Ltd.; Shandong Hugerubber Co., Ltd.; Shanghai Huayi Group Corporation Limited; and Weifang Shunfuchang Rubber And Plastic Products Co., Ltd., pursuant to 19 CFR 351.213(d)(1).[6] Because the withdrawal requests were timely filed, and no other parties requested a review of these companies, in accordance with 19 CFR 351.213(d)(1), Commerce is rescinding this review of the Order with respect to the seven companies noted above.

Intent To Rescind Administrative Review, in Part

It is Commerce's practice to rescind an administrative review of a countervailing duty order, pursuant to 19 CFR 351.213(d)(3), when there are no reviewable entries of subject merchandise during the POR for which liquidation is suspended.[7] Normally, upon completion of an administrative review, the suspended entries are liquidated at the countervailing duty assessment rate calculated for the review period.[8] Therefore, for an administrative review of a company to be conducted, there must be a reviewable, suspended entry that Commerce can instruct U.S. Customs and Border Protection (CBP) to liquidate at the calculated countervailing duty assessment rate calculated for the review period.[9] According to the CBP import data, there are eight companies subject to this review that did not have reviewable entries of subject merchandise during the POR for which liquidation is suspended. Accordingly, in the absence of reviewable, suspended entries of subject merchandise during the POR, we intend to rescind this administrative review with respect to these eight other companies, in accordance with 19 CFR 351.213(d)(3).[10]

Preliminary Rate for Non-Selected Companies Under Review

There are eight companies for which a review was requested and not rescinded, and which were not selected as mandatory respondents or found to be cross-owned with a mandatory respondent. For these companies, because the rates calculated for the mandatory respondents, Qingdao Ge Rui Da Rubber Co., Ltd. (GRT) and Prinx Chengshan (Shandong) Tire Co., Ltd. (PCT) were above *de minimis* and not based entirely on facts available, we are applying to the non-selected companies the average of the net subsidy rates calculated for GRT and PCT, which we calculated using the publicly-ranged sales data submitted by GRT and PCT.[11] This methodology to establish the rate for the non-selected companies uses section 705(c)(5)(A) of the Act, which governs the calculation of the ''all-others'' rate in an investigation, as guidance. For further information on the calculation of the non-selected respondent rate, refer to the section in the Preliminary Decision Memorandum

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 86 FR 17135 (April 1, 2021).

[2] *See* Memorandum, ''Truck and Bus Tires from the People's Republic of China: Extension of Deadline for Preliminary Results of Countervailing Duty Administrative Review; 2020,'' dated October 1, 2021.

[3] *See* Memorandum, ''Decision Memorandum for the Preliminary Results of 2020 Countervailing Duty Administrative Review: Truck and Bus Tires from the People's Republic of China and Recission of Administrative Review, in Part,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[4] *See* Preliminary Decision Memorandum.

[5] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

[6] *See* Shandong and Weifang's Letter, ''Truck and Bus Tires from the People's Republic of China—Withdrawal of Request for Administrative Review'', dated June 30, 2021.

[7] *See, e.g., Lightweight Thermal Paper from the People's Republic of China: Notice of Rescission of Countervailing Duty Administrative Review; 2015,* 82 FR 14349 (March 20, 2017); and *Circular Welded Carbon Quality Steel Pipe from the People's Republic of China: Rescission of Countervailing Duty Administrative Review; 2017,* 84 FR 14650 (April 11, 2019).

[8] *See* 19 CFR 351.212(b)(2).

[9] *See* 19 CFR 351.213(d)(3).

[10] The eight companies are: Chongqing Hankook Tire Co., Ltd.; Guangrao Kaichi Trading Co., Ltd.; Qingdao Fullrun Tyre Corp. Ltd.; Qingdao Honghuasheng Trade Co., Ltd.; Qingdao Kapsen Trade Co., Ltd.; Qingdao Sunfulcess Tyre Co., Ltd.; Shandong Habilead Rubber Co., Ltd.; and Shandong Qilun Rubber Co., Ltd.

[11] With two respondents under examination, Commerce normally calculates (A) a weighted-average of the estimated subsidy rates calculated for the examined respondents; (B) a simple average of the estimated subsidy rates calculated for the examined respondents; and (C) a weighted-average of the estimated subsidy rates calculated for the examined respondents using each company's publicly-ranged U.S. sale quantities for the merchandise under consideration. Commerce then compares (B) and (C) to (A) and selects the rate closest to (A) as the most appropriate rate for all other producers and exporters. *See, e.g., Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part,* 75 FR 53661, 53663 (September 1, 2010).

entitled ''Non-Selected Companies Under Review.''

Preliminary Results of Review

We preliminarily find the following net countervailable subsidy rates for the period January 1, 2020, through December 31, 2020, are as follows:

Manufacturer/exporter	Subsidy rate (percent *ad valorem*)
Prinx Chengshan (Shandong) Tire Company Ltd [12]	17.85
Qingdao Ge Rui Da Tire Company [13]	17.15
Review-Specific Average Rate Applicable to the Following Companies [14]	
Jiangsu General Science Technology Co., Ltd	17.21
Jiangsu Hankook Tire Co., Ltd	17.21
Qingdao Awesome International Trade Co., Ltd	17.21
Qingdao Doublestar Tire Industrial Co., Ltd	17.21
Shandong Haohua Tire Co., Ltd	17.21
Shandong Huasheng Rubber Co., Ltd	17.21
Shandong Kaixuan Rubber Co., Ltd	17.21
Triangle Tyre Co., Ltd	17.21

Disclosure and Public Comment

We will disclose to parties in this review, the calculations performed for these preliminary results within five days after the date of publication of this notice.[15] Interested parties case briefs no later than 30 days after the date of publication of these preliminary results of review.[16] Rebuttals to case briefs may be filed no later than seven days after the case briefs are filed, and all rebuttal comments must be limited to comments raised in the case briefs.[17] Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information until further notice.[18]

Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this review are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, filed electronically using ACCESS. An electronically-filed request must be received successfully, and in its entirety, by ACCESS by 5:00 p.m. Eastern Time, within 30 days after the date of publication of this notice. Hearing requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, parties will be notified of the date and time for the hearing to be determined.

Unless extended, we intend to issue the final results of this administrative review, which will include the results of our analysis of the issues raised in the case briefs, within 120 days of publication of these preliminary results in the **Federal Register**, pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h).

Cash Deposit Requirements

Pursuant to section 751(a)(2)(C) of the Act, Commerce intends, upon publication of the final results, to instruct CBP to collect cash deposits of estimated countervailing duties in the amounts shown for each of the respondents listed above on shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. If the rate calculated in the final results is zero or *de minim*is, no cash deposit will be required on shipments of the subject merchandise entered or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review.

For all non-reviewed firms, CBP will continue to collect cash deposits of estimated countervailing duties at the all-others rate or the most recent company-specific rate applicable to the company, as appropriate. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Assessment Rates

In accordance with 19 CFR 351.221(b)(4)(i), we preliminarily assigned subsidy rates in the amounts shown above for the producers/exporters shown above. Upon completion of the administrative review, consistent with section 751(a)(1) of the Act and 19 CFR 351.212(b)(2), Commerce shall determine, and CBP shall assess, countervailing duties on all appropriate entries covered by this review. For the companies for which this review is rescinded, we will instruct CBP to assess countervailing duties on all appropriate entries at a rate equal to the cash deposit of estimated countervailing duties required at the time of entry, or withdrawal from warehouse, for consumption, during the period January 1, 2020, through December 31, 2020, in accordance with 19 CFR 351.212(c)(l)(i). For the companies remaining in the review, we intend to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S.

[12] As discussed in the Preliminary Decision Memorandum, Commerce has found the following companies to be cross-owned with Prinx Chengshan (Shandong) Tire Company Ltd.: Chengshan Group Co., Ltd.; Shanghai Chengzhan Information and Technology Center; Prinx Chengshan (Qingdao) Industrial Research & Design Co., Ltd.; and Shandong Prinx Chengshan Tire Technology Research Co., Ltd.

[13] As discussed in the Preliminary Decision Memorandum, Commerce has found the following companies to be cross-owned with Qingdao Ge Rui Da Tire Company:Cooper Tire (China) Investment Co. Ltd.; Cooper Tire Asia-Pacific (Shanghai) Trading Co., Ltd.; Cooper (Kunshan) Tire Co., Ltd.; and Qingdao Yiyuan Investment Co., Ltd.

[14] This rate is based on the rate for the respondent that was selected for individual review, excluding rates that are zero, *de minimis,* or based entirely on facts available. *See* section 735(c)(5)(A) of the Act.

[15] *See* 19 CFR 351.224(b).

[16] *See* 19 CFR 351.309(c).

[17] *See* 19 CFR 351.309(d).

[18] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 29615 (May 18, 2020); and *Temporary Rule Modifying AD/CVD Service Requirements Due* to COVID–19; Extension of Effective Period, 85 FR 41363 (July 10, 2020).

Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Notification to Interested Parties

These preliminary results and notice are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213 and 351.221(b)(4).

Dated: February 25, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2022–04885 Filed 3–7–22; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–867]

Large Power Transformers From the Republic of Korea: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2019–2020

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

SUMMARY: The Department of Commerce (Commerce) determines that Hyosung Heavy Industries Corporation (Hyosung) made sales of large power transformers from the Republic of Korea (Korea) at less than normal value during the period of review (POR) August 1, 2019, through July 31, 2020.

DATES: Applicable March 8, 2022.

FOR FURTHER INFORMATION CONTACT: John Drury, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0195.

SUPPLEMENTARY INFORMATION:

Background

On September 2, 2021, Commerce published the *Preliminary Results.*[1] A summary of the events that occurred since Commerce published these *Preliminary Results,* as well as a full discussion of the issues raised by parties for these final results, may be found in the Issues and Decision Memorandum, which is hereby adopted by this notice.[2]

The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

On December 9, 2021, Commerce extended the deadline for these final results of review until March 1, 2022.[3]

Scope of the Order

The scope of this order covers large liquid dielectric power transformers having a top power handling capacity greater than or equal to 60,000 kilovolt amperes (60 megavolt amperes), whether assembled or unassembled, complete or incomplete. The merchandise subject to the order is currently classified in the Harmonized Tariff Schedule of the United States at subheadings 8504.23.0040, 8504.23.0080, and 8504.90.9540. For a complete description of the scope of the order, *see* the accompanying Issues and Decision Memorandum.

Final Determination of No Shipments

In the *Preliminary Results,* Commerce determined that LSIS Co. Ltd. (LSIS) had no shipments of subject merchandise during the POR.[4] No party commented on this issue and because we have not received any information to contradict our preliminary finding, we continue to find that LSIS did not have any shipments of subject merchandise during the POR and intend to issue appropriate instructions to U.S. Customs and Border Protection (CBP) based on the final results of this review.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the Issues and Decision Memorandum. For a list of the issues raised by parties, *see* the Appendix to this notice.

Changes Since the Preliminary Results

Based on our review of the record and comments received from interested parties, we made certain changes to the margin calculations for Hyosung.[5] As a result of these changes, the weighted-average dumping margin also changes for the companies subject to this review, but not selected for individual examination.

Rates for Non-Selected Respondents

The statute and Commerce's regulations do not address the establishment of a rate to be applied to companies not selected for individual examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in a market economy investigation, for guidance when calculating the rate for companies which were not selected for individual examination in an administrative review. Under section 735(c)(5)(A) of the Act, the all-others rate is normally ''an amount equal to the weighted average of the estimated weighted average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely {on the basis of facts available}.''

For these final results, we have assigned the rate calculated for respondent Hyosung to all of the non-selected respondents, as listed below.

Final Results of the Administrative Review

We determine that the following estimated weighted-average dumping

[1] *See Large Power Transformers from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments, 2019–2020,* 86 FR 49304 (September 2, 2021) (*Preliminary Results*).

[2] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the Administrative Review of the Antidumping Duty Order on Large Power Transformers from the Republic of Korea; 2019–2020,'' dated concurrently with this notice (Issues and Decision Memorandum).

[3] *See* Memorandum, ''Large Power Transformers from the Republic of Korea: Extension of Deadline for Final Results of Antidumping Duty Administrative Review; 2019–2020,'' dated December 9, 2021.

[4] *See Preliminary Results.*

[5] *See* Issues and Decision Memorandum at Comment 1; *see also* Memorandum, ''Analysis of Data Submitted by Hyosung Corporation in the Final Results of the 2019–2020 Administrative Review of the Antidumping Duty Order on Large Power Transformers from the Republic of Korea,'' dated concurrently with this notice.

margins exist for the period July 1, 2019, through June 30, 2020:

Producer/exporter	Estimated weighted-average dumping margin (percent)
Hyosung Heavy Industries Corporation	7.92
Hyundai Electric & Energy Systems Co., Ltd	7.92
Iljin Electric Co., Ltd	7.92
Iljin	7.92

Disclosure

We will disclose the calculations performed to parties in this proceeding within five days after the date of the public announcement of these final results of review, in accordance with 19 CFR 351.224(b).

Assessment Rate

Commerce shall determine, and CBP shall assess, antidumping duties on all appropriate entries.[6] For any individually examined respondents whose weighted-average dumping margin is above *de minimis,* we calculated importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of dumping calculated for the importer's examined sales to the total entered value of those same sales, in accordance with 19 CFR 351.212(b)(1). Upon issuance of the final results of this administrative review, if any importer-specific assessment rates calculated in the final results are above *de minimis* (*i.e.,* at or above 0.5 percent), Commerce will issue instructions directly to CBP to assess antidumping duties on appropriate entries.

To determine whether the duty assessment rates covering the period were *de minimis,* in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we calculated importer (or customer)-specific *ad valorem* rates by aggregating the amount of dumping calculated for all U.S. sales to that importer or customer and dividing this amount by the total entered value of the sales to that importer (or customer). Where an importer (or customer)-specific *ad valorem* rate is greater than *de minimis,* and the respondent has reported reliable entered values, we will apply the assessment rate to the entered value of the importer's/customer's entries during the POR.

Consistent with its recent notice,[7] Commerce intends to issue appropriate assessment instructions directly to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of this notice for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication of these final results, as provided by section 751(a)(2) of the Act: (1) The cash deposit rate for respondents noted above will be equal to the weighted-average dumping margins established in the final results of this administrative review; (2) for merchandise exported by producers or exporters not covered in this administrative review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company specific rate published for the most recently completed segment of this proceeding; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation, but the producer is, the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the producer of the subject merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 22.00 percent, the all-others rate established in the less-than-fair-value investigation.[8] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers Regarding the Reimbursement of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping and/or countervailing duties prior to liquidation of the relevant entries during the POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping and/or countervailing duties did occur and the subsequent assessment of doubled antidumping duties.

Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(h) and 19 CFR 351.221(b)(5).

Dated: March 1, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Issues and Decision Memorandum

[FR Doc. 2022–04888 Filed 3–7–22; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[[A–557–813]

Polyethylene Retail Carrier Bags From Malaysia: Final Results of the Antidumping Duty Administrative Review; 2019–2020

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

[6] In these final results, Commerce applied the assessment rate calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification,* 77 FR 8101 (February 14, 2012).

[7] *See Notice of Discontinuation of Policy to Issue Liquidation Instructions After 15 Days in Applicable Antidumping and Countervailing Duty Administrative Proceedings,* 86 FR 3995 (January 15, 2021).

[8] *See Large Power Transformers from the Republic of Korea: Antidumping Duty Order,* 77 FR 53177 (August 31, 2012).

SUMMARY: The Department of Commerce (Commerce) determines that Euro SME Sdn. Bhd. made sales of subject merchandise at less than normal value (NV) during the period of review (POR) August 1, 2019, through July 31, 2020.

DATES: Applicable March 8, 2022.

FOR FURTHER INFORMATION CONTACT: Stephanie Berger, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–24783.

SUPPLEMENTARY INFORMATION:

Background

On September 2, 2021, Commerce published the *Preliminary Results* for this administrative review.[1] We invited interested parties to comment on the *Preliminary Results.* This review covers one producer/exporter of the subject merchandise: Euro SME Sdn. Bhd. and Euro Nature Green Sdn. Bhd. (Nature Green) (collectively, Euro SME).[2] On December 7, 2021, we extended the deadline for the final results of this review to March 1, 2022.[3] We received a case brief from the petitioners [4] and a rebuttal brief from Euro SME.[5] A complete summary of the events that occurred since publication of the *Preliminary Results* is found in the Issues and Decision Memorandum.[6] Commerce conducted this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The merchandise covered by this order is polyethylene retail carrier bags (PRCBs) from Malaysia, which may be referred to as t-shirt sacks, merchandise bags, grocery bags, or checkout bags. Imports of merchandise included within the scope of this antidumping duty order are currently classifiable under statistical category 3923.21.0085 of the Harmonized Tariff Schedule of the United States (HTSUS). This subheading may also cover products that are outside the scope of this antidumping duty order. Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this antidumping duty order is dispositive. For a full description of the scope of the order, *see* the Issues and Decision Memorandum.

Verification

Commerce was unable to conduct on-site verification of the information relied upon for the final results of this review. However, we took additional steps in lieu of an on-site verification to verify this information, in accordance with section 782(i) of the Act.[7]

Analysis of the Comments Received

We addressed all issues raised in the case and rebuttal briefs in the Issues and Decision Memorandum.[8] A list of the issues discussed in the Issues and Decisions Memorandum is attached in an appendix to this notice. The Issues and Decision Memorandum is a public document and is available electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Changes Since the Preliminary Results

Based on our analysis of the comments received from interested parties, a review of the record, and for the reasons explained in the Issues and Decision Memorandum, we made changes to Euro SME's preliminary margin calculations. For a detailed discussion of these changes, *see* the Issues and Decision Memorandum.

Final Results of the Administrative Review

We determine that the following weighted-average dumping margin exists for the respondent for the period July 1, 2019, through June 30, 2020:

Exporter/producer	Weighted-average dumping margin (percent)
Euro SME Sdn. Bhd.; and Euro Nature Green Sdn. Bhd	6.47

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b)(1), Commerce has determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. In accordance with 19 CFR 351.212(b)(1), Commerce calculated an importer-specific *ad valorem* antidumping assessment rate for Euro SME that is not zero or *de minimis* and intends to instruct CBP to assess antidumping duties on all appropriate entries covered by this review.

Consistent with Commerce's assessment practice, for entries of subject merchandise during the POR produced by Euro SME for which it did not know that the merchandise was destined for the United States, we intend to instruct CBP to liquidate such unreviewed entries at the all-others rate if there is no company-specific rate for the intermediate company(ies) involved in the transaction.[9]

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the

[1] *See Polyethylene Retail Carrier Bags from Malaysia: Preliminary Results of Antidumping Duty Administrative Review; 2019–2020,* 86 FR 49309 (September 2, 2021) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

[2] In the 2018–2019 administrative review of the antidumping duty order, Commerce collapsed Euro SME Sdn. Bhd. and Nature Green and treated them as a single entity. *See Polyethylene Retail Carrier Bags from Malaysia: Preliminary Results of Antidumping Duty Administrative Review; 2018–2019,* 85 FR 83515 (December 22, 2020), and accompanying Preliminary Decision Memorandum at 3–5, unchanged in *Polyethylene Retail Carrier Bags from Malaysia: Final Results of Antidumping Duty Administrative Review; 2018–2019,* 86 FR 22019 (April 26, 2021). Our treatment of Euro SME Sdn. Bhd. and Nature Green remains unchanged in the instant review.

[3] *See* Memorandum, ''Polyethylene Retail Carrier Bags from Malaysia: Extension of Time Limit for the Final Results of Antidumping Duty Administrative Review, 2019–2020,'' dated December 7, 2021.

[4] The petitioners are the Polyethylene Retail Carrier Bag Committee and its individual members, Hilex Poly Co., LLC and Superbag Corporation (collectively, petitioners). *See* Petitioners' Letter, ''Polyethylene Retail Carrier Bags from Malaysia: Petitioners' Case Brief,'' dated December 14, 2021.

[5] *See* Euro SME's Letter, ''Polyethylene Retail Carrier Bags from Malaysia; Resubmission of Rebuttal Brief,'' dated January 7, 2022.

[6] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the 2019–2020 Antidumping Duty Administrative Review: Polyethylene Retail Carrier Bags from Malaysia,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[7] *See* Commerce's Letter, In Lieu of Verification Questions, dated October 21, 2021; *see also* Euro SME's Letter, ''Polyethylene Retail Carrier Bags from Malaysia; Response to Request for Information,'' dated October 28, 2021.

[8] *See* Issues and Decision Memorandum.

[9] *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for Euro SME will be equal to the weighted-average dumping margin established in the final results of this administrative review; (2) for merchandise exported by producers or exporters not covered in this review but covered in a prior completed segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding in which the producer or exporter participated; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation, but the producer has been covered in a prior complete segment of this proceeding, then the cash deposit rate will be the rate established for the most recent period for the producer of the merchandise; (4) the cash deposit rate for all other manufacturers or exporters will continue to be 84.94 percent, the all-others rate established in the less-than-fair-value investigation.[10] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Disclosure

We intend to disclose the calculations performed for these final results within five days of the date of publication of this notice in the **Federal Register**, in accordance with 19 CFR 351.224(b).

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification Regarding Administrative Protective Order

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

We are issuing and publishing these final results in accordance with sections 751(a)(1) and 777(i) of the Act, and 19 CFR 351.221(b)(5).

Dated: March 1, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Issues and Decision Memorandum

[FR Doc. 2022–04886 Filed 3–7–22; 8:45 am]

BILLING CODE 3510–DS–P

[10] *See Antidumping Duty Order: Polyethylene Retail Carrier Bags from Malaysia,* 69 FR 48203 (August 9, 2004).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–274–808]

Urea Ammonium Nitrate Solutions From the Republic of Trinidad and Tobago: Amended Preliminary Determination of Sales at Less Than Fair Value

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

SUMMARY: On February 2, 2022, the Department of Commerce (Commerce) published its preliminary determination in the less-than-fair-value investigation of urea ammonium nitrate solutions (UAN) from the Republic of Trinidad and Tobago (Trinidad) in the **Federal Register**. Commerce is amending this preliminary determination to correct a significant ministerial error.

DATES: Applicable March 8, 2022.

FOR FURTHER INFORMATION CONTACT: Lilit Astvatsatrian, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–6412.

SUPPLEMENTARY INFORMATION:

Background

On February 2, 2022, Commerce published in the **Federal Register** the preliminary determination in the less-than-fair-value investigation of UAN from Trinidad,[1] and disclosed all calculations to interested parties. On February 2, 2022, CF Industries Nitrogen, LLC and its subsidiaries, Terra Nitrogen, Limited Partnership and Terra International (Oklahoma) LLC (the petitioner) filed timely ministerial error allegations concerning the *Preliminary Determination* for the sole respondent, Methanol Holdings (Trinidad) Ltd. (MHTL), and requested, pursuant to 19 CFR 351.224(e), that Commerce correct the alleged ministerial error.[2]

Period of Investigation

The period of investigation is April 1, 2020, through March 31, 2021.

Scope of the Investigation

The product covered by this investigation is UAN from Trinidad. For a complete description of the scope of the investigation, *see Preliminary Determination,* at Appendix I.

Significant Ministerial Error

In accordance with 19 CFR 351.224(e), Commerce ''will analyze any comments received and, if appropriate, correct any significant ministerial error by amending the preliminary determination.'' A ministerial error is defined in 19 CFR 351.224(f) as ''an error in addition, subtraction, or other arithmetic function clerical error resulting from inaccurate copying, duplication, or the like, and any other similar type of unintentional error which the Secretary considers ministerial.'' A significant ministerial error is defined as a ministerial error, the correction of which, singly or in combination with other errors, would result in: (1) A change of at least five absolute percentage points in, but not less than 25 percent of, the weighted-average dumping margin calculated in the original (erroneous) preliminary determination; or (2) a difference between a weighted-average dumping margin of zero or *de minimis* and a

[1] *See Urea Ammonium Nitrate Solutions from the Republic of Trinidad and Tobago: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures,* 87 FR 5783 (February 2, 2022) (*Preliminary Determination*).

[2] *See* Petitioner's Letter, ''Urea Ammonium Nitrate Solutions from the Republic of Trinidad and Tobago: Petitioner's Ministerial Error Comments Regarding the Preliminary Determination,'' dated February 2, 2022 (Ministerial Allegation).

weighted-average dumping margin of greater than *de minimis* or vice versa.[3]

Ministerial Error Allegation

The petitioner timely alleged that Commerce made a significant ministerial error by adjusting MHTL's total cost of manufacturing twice when applying natural gas and electricity factors to account for a particular market situation (PMS).[4] After analyzing these allegations, we determine that we made a significant ministerial error in the *Preliminary Determination* with respect to our PMS adjustment of MHTL's total cost of manufacturing.[5] For a detailed discussion of the aforementioned ministerial error allegations, as well as Commerce's analysis of these comments, *see* the Ministerial Error Memorandum.

Pursuant to 19 CFR 351.224(g)(1), Commerce's error in the application of the PMS factors is significant, because its correction results in a change of at least five absolute percentage points in, but not less than 25 percent of, the estimated weighted-average dumping margin calculated in the *Preliminary Determination* (*i.e.,* a change from an estimated weighted-average dumping margin of 63.08 percent to 111.64 percent.) Therefore, we are correcting the ministerial error and amending our *Preliminary Determination* accordingly.[6]

Amended Preliminary Determination

We are amending the *Preliminary Determination* to reflect the correction of a significant ministerial error made in the margin calculation for MHTL in accordance with 19 CFR 351.224(e). In addition, because the preliminary ''All-Others'' rate was based on the estimated weighted-average dumping margin calculated for MHTL, we are also amending the ''All-Others'' rate. As a result of the correction of the ministerial error, the revised estimated weighted-average dumping margins are as follows:

Exporter/producer	Estimated weighted-average dumping margin (percent)
Methanol Holdings (Trinidad) Ltd	111.64
All-Others	111.64

[3] *See* 19 CFR 351.224(g)(1) and (2).

[4] *See* Ministerial Allegations at 2.

[5] *See* Memorandum, ''Preliminary Determination of Antidumping Duty Investigation on Urea Ammonium Nitrate Solutions from the Republic of Trinidad and Tobago: Allegation of Ministerial Error,'' dated concurrently with this notice (Ministerial Error Memorandum).

[6] *See* Ministerial Error Memorandum.

Amended Cash Deposits and Suspension of Liquidation

The collection of cash deposits and suspension of liquidation will be revised according to the rates established in this amended preliminary determination, in accordance with section 773(d) of the Tariff Act of 1930, as amended (the Act). Because these amended rates result in increased cash deposit rates, they will be effective on the date of publication of this notice in the **Federal Register**.

International Trade Commission Notification

In accordance with section 773(f) of the Act, we intend to notify the International Trade Commission of our amended preliminary determination.

Disclosure

We intend to disclose the calculations performed to parties in this proceeding within five days after public announcement of the amended preliminary determination, in accordance with 19 CFR 351.224.

This amended preliminary determination is issued and published in accordance with sections 773(f) and 777(i) of the Act and 19 CFR 351.224(e).

Dated: March 1, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2022–04887 Filed 3–7–22; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–876]

Fine Denier Polyester Staple Fiber From India: Preliminary Results of Countervailing Duty Administrative Review; 2020

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

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that Reliance Industries Limited (Reliance), a producer/exporter of fine denier polyester staple fiber (fine denier PSF) from India, received countervailable subsidies that are above *de minimis* during the period of review, January 1, 2020, through December 31, 2020.

DATES: Applicable March 8, 2022.

FOR FURTHER INFORMATION CONTACT: Thomas Hanna, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0835.

SUPPLEMENTARY INFORMATION:

Background

On May 5, 2021, Commerce published a notice of initiation of an administrative review of the countervailing duty order on fine denier PSF from India with respect to Reliance.[1] On November 5, 2021, Commerce postponed the preliminary results of this review by 90 days until March 1, 2022, in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act).[2]

For a complete description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.[3] A list of topics discussed in the Preliminary Decision Memorandum is included at the appendix to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov*. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Scope of the Order

The merchandise covered by the order is fine denier polyester staple fiber (fine denier PSF). For a complete description of the scope of the order, *see* the Preliminary Decision Memorandum.

Methodology

Commerce is conducting this administrative review in accordance with section 751(a)(1)(A) of the Act. For each of the subsidy programs found countervailable, we preliminarily find that there is a subsidy, *i.e.,* a government-provided financial contribution that gives rise to a benefit to the recipient, and that the subsidy is specific.[4] For a full description of the

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 86 FR 23925 (May 5, 2021) (*Initiation Notice*).

[2] *See* Memorandum, ''2020 Countervailing Duty Administrative Review of Fine Denier Polyester Staple Fiber from India: Extension of Deadline for Preliminary Results,'' dated November 5, 2021.

[3] *See* Memorandum, ''Decision Memorandum for the Preliminary Results of the 2020 Administrative Review of the Countervailing Duty Order on Fine Denier Polyester Staple Fiber from India,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[4] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E)

methodology underlying our conclusions, see the Preliminary Decision Memorandum.

Preliminary Results of Review

As a result of this review, we preliminarily determine the following net countervailable subsidy rate for the sole mandatory respondent, Reliance, for the period January 1, 2020, through December 31, 2020:

Company	Subsidy rate (percent ad valorem)
Reliance Industries Limited	5.82

Assessment Rate

Consistent with section 751(a)(2)(C) of the Act and 19 CFR 351.212(b)(2), upon issuance of the final results, Commerce will determine, and U.S. Customs and Border Protection (CBP) shall assess, countervailing duties on all appropriate entries covered by this review. Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Rate

In accordance with section 751(a)(2)(C) of the Act, Commerce also intends to instruct CBP to collect cash deposits of estimated countervailing duties in the amount indicated above with regard to shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. For all non-reviewed firms, Commerce will instruct CBP to continue to collect cash deposits of estimated countervailing duties at the most recent company-specific or all-others rate applicable to the company, as appropriate. These cash deposit instructions, when imposed, shall remain in effect until further notice.

Disclosure and Public Comment

We will disclose to parties in this proceeding the calculations performed in reaching the preliminary results within five days of publication of these preliminary results in the **Federal Register**.[5] Interested parties may submit written comments (case briefs) on the preliminary results no later than 30 days from the date of publication of this **Federal Register** notice, and rebuttal comments (rebuttal briefs) within seven days after the time limit for filing case briefs.[6] Pursuant to 19 CFR 351.309(d)(2), rebuttal briefs must be limited to issues raised in the case briefs. Parties who submit arguments are requested to submit with the argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[7]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS by 5 p.m. Eastern Time within 30 days after the date of publication of this notice.[8] Hearing requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Issues addressed at the hearing will be limited to those raised in the briefs. If a request for a hearing is made, Commerce intends to hold the hearing at a date and time to be determined.[9] Parties should confirm by telephone the date and time of the hearing two days before the scheduled date.

Parties are reminded that all briefs and hearing requests are to be filed electronically using ACCESS and that electronically filed documents must be received successfully in their entirety by 5 p.m. Eastern Time on the due date. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[10]

Commerce intends to issue the final results of this administrative review, including the results of our analysis of the issues raised by the parties in their comments, no later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h), unless this deadline is extended.

Notification to Interested Parties

These preliminary results are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213 and 19 CFR 351.221(b)(4).

Dated: March 1, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2022–04889 Filed 3–7–22; 8:45 am]

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of the Act regarding benefit; and section 771(5)(A) of the Act regarding specificity.

[5] *See* 19 CFR 351.224(b).

[6] *See* 19 CFR 351.309(c)(1)(ii) and 351.309(d)(1); *see also* 19 CFR 351.303 (for general filing requirements).

[7] *See* 19 CFR 351.309(c)(2) and 351.309(d)(2).

[8] *See* 19 CFR 351.310(c).

[9] *Id.*

[10] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Economic Surveys of Specific U.S. Commercial Fisheries

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 September 28, 2021 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: National Oceanic & Atmospheric Administration (NOAA), Commerce.

Title: Economic Surveys of Specific US Commercial Fisheries.

OMB Control Number: 0648–0773.

Form Number(s): None.

Type of Request: Regular submission [revision of a currently approved collection].

Number of Respondents: 1,655.

Average Hours per Response:

NWFSC: West Coast Limited Entry Groundfish Fixed Gear Fisheries Economic Data Collection: 3 hours.

NWFSC: West Coast Open Access Groundfish, Non-tribal Salmon, Crab,

and Shrimp Fisheries Economic Data Collection: 3 hours.

PIFSC: American Samoa Longline Fishery Economic Data Collection: 1 hour.

PIFSC: Hawaii Pelagic Longline Fishery Economic Data Collection: 1 hour.

PIFSC: Hawaii Small Boat Fishery Economic Data Collection: 45 minutes.

PIFSC: American Samoa Small Boat Fishery Economic Data Collection: 45 minutes.

PIFSC: American Samoa, Guam, and The Commonwealth of The Northern Mariana Islands Small Boat-Based Fisheries Economic Data Collection (an add-on to a creel survey): 10 minutes.

PIFSC: Mariana Archipelago Small Boat Fleet Economic Data Collection: 45 minutes.

SEFSC: USVI F Small-Scale Commercial Fisheries Economic Data Collection: 15 minutes.

SEFSC: Puerto Rico Small-Scale Commercial Fisheries Economic Data Collection: 1 hour.

SEFSC: Gulf of Mexico Inshore Shrimp Fishery Economic Data Collection: 28 minutes.

SEFSC: U.S. South Atlantic Region Golden Crab Fishery Economic Data Collection: 30 minutes.

SWFSC: West Coast Coastal Pelagic Fishery Economic Data Collection: 3 hours.

SWFSC: West Coast Swordfish Fishery Economic Data Collection: 30 minutes.

SWFSC: West Coast North Pacific Albacore Fishery Economic Data Collection: 1 hour.

NEFSC: Northeast Commercial Fishing Business Economic Data Collection: 1 hour.

Total Annual Burden Hours: 1,757.

Needs and Uses: This request is for a revision and extension of a currently approved collection.

The Office of Science and Technology is sponsoring the collection. Economic surveys will be conducted in selected commercial fisheries for the East Coast, Gulf of Mexico, Caribbean, West Coast, Hawaii, and the U.S. Pacific Islands territories.

The requested information will include different components of operating costs/expenditures, earnings, employment, ownership, vessel characteristics, effort/gear descriptors, employment, and demographic information for the various types of fishing vessels operating in the 16 U.S. commercial fisheries or groups of fisheries listed below.

1. West Coast Limited Entry Groundfish Fixed Gear Fisheries
2. West Coast Open Access Groundfish, Non-tribal Salmon, Crab, and Shrimp Fisheries
3. American Samoa Longline Fishery
4. Hawaii Pelagic Longline Fishery
5. Hawaii Small Boat Fishery
6. American Samoa Small Boat Fishery
7. American Samoa, Guam, and The Commonwealth of The Northern Mariana Islands Small Boat-Based Fisheries
8. Mariana Archipelago Small Boat Fleet
9. USVI F Small-Scale Commercial Fisheries
10. Puerto Rico Small-Scale Commercial Fisheries
11. Gulf of Mexico Inshore Shrimp Fishery
12. U.S. South Atlantic Region Golden Crab Fishery
13. West Coast Coastal Pelagic Fishery
14. West Coast Swordfish Fishery
15. West Coast North Pacific Albacore Fishery
16. Northeast and Mid-Atlantic Fisheries

A variety of laws, Executive Orders (EOs), and NOAA Fisheries strategies and policies include requirements for economic data and the analyses they support. When met adequately, those requirements allow better-informed conservation and management decisions on the use of living marine resources and marine habitat in federally managed fisheries. Obtaining these data improves the ability of NOAA Fisheries and the Regional Fishery Management Councils (Councils) to monitor, explain and predict changes in the economic performance and impacts of federally managed commercial fisheries. Measures of economic performance include costs, earnings, and profitability (net revenue); productivity and economic efficiency; capacity; economic stability; the level and distribution of net economic benefits to society; and market power. The economic impacts include sector, community or region-specific, and national employment, sales, value-added, and income impacts. Economic data are required to support more than a cursory effort to comply with or support the following laws, EOs, and NOAA Fisheries strategies and policies:

1. The Magnuson-Stevens Fishery Conservation and Management Act (MSA)
2. The Marine Mammal Protection Act (MMPA)
3. The Endangered Species Act (ESA)
4. The National Environmental Policy Act (NEPA)
5. The Regulatory Flexibility Act (RFA)
6. E.O. 12866 (Regulatory Planning and Review)
7. E.O. 13771 (Reducing Regulation and Controlling Regulatory Costs)
8. E.O. 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations)
9. E.O. 13840 (Ocean Policy to Advance the Economic, Security, and Environmental Interests of the United States)
10. The NOAA Fisheries Guidelines for Economic Reviews of Regulatory Actions
11. The NOAA Fisheries Strategic Plan 2019–2022 (Strategic Plan)
12. The NOAA Fisheries Ecosystem-Based Fishery Management (EBFM) Road Map
13. The NOAA Fisheries National Bycatch Reduction Strategy
14. NOAA's Catch Share Policy

Data collections will focus each year on a different set of the 16 commercial fisheries or groups of fisheries. This cycle of data collection will facilitate economic data being available and updated for all those commercial fisheries.

There will be an effort to coordinate the data collections in order to reduce the additional burden for those who participate in multiple fisheries. To further reduce the burden, the requested information for a specific fishery will be limited to that which is not available from other sources. Participation in these data collections will be voluntary.

The proposed revisions to the information collection will: (a) Add an information collection for Northeast and Mid-Atlantic fisheries; (b) increase the burden hours to account for that addition information collection: (c) make minor changes to the survey forms that primarily provide flexibility with respect to when NMFS will conduct each of the 16 information collections; and (d) extend it for three years. Though the information collection was recently renewed, an extension is requested at this time as no additional changes to the collection are anticipated before the current expiration date.

Affected Public: Individuals or households and business or other for-profit organizations.

Frequency: Every 3 to 8 years.

Respondent's Obligation: Voluntary.

Legal Authority: Magnuson-Stevens Fishery Conservation and Management Act.

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 0648–0773.

Sheleen Dumas,

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

[FR Doc. 2022–04849 Filed 3–7–22; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB816]

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits

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

ACTION: Notice; request for comments.

SUMMARY: The Assistant Regional Administrator for Sustainable Fisheries, Greater Atlantic Region, NMFS, has made a preliminary determination that a proposed exempted fishing permit contains all of the required information and warrants further consideration. This exempted fishing permit would allow Atlantic herring vessels to use electronic monitoring, coupled with portside sampling, in lieu of at-sea monitoring to satisfy their industry-funded monitoring requirements during 2022. Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed exempted fishing permits.

DATES: Comments must be received on or before March 23, 2022.

ADDRESSES: You may submit written comments by the following method:

- *Email: nmfs.gar.efp@noaa.gov.* Include in the subject line ''HERRING EM EFP.''

FOR FURTHER INFORMATION CONTACT: Maria Fenton, Fishery Management Specialist, 978–281–9196.

SUPPLEMENTARY INFORMATION:

Background

The New England Fishery Management Council took final action on the New England Industry-Funded Monitoring (IFM) Omnibus Amendment in 2018 and recommended a 50-percent coverage target for at-sea monitoring (ASM) coverage aboard vessels issued a Category A or B herring permit. This 50-percent coverage target includes a combination of Standardized Bycatch Reporting Methodology (SBRM) and IFM coverage. IFM coverage requirements may be waived on a trip-by-trip basis if monitoring coverage is unavailable, if vessels intend to land less than 50 mt of herring, or if vessels carry no fish on pair trawling trips (*i.e.,* wing vessels). The IFM Amendment also included a provision allowing midwater trawl vessels to purchase observer coverage in order to fish in Groundfish Closed Areas (GCA).

The Council reviewed the results from a midwater trawl electronic monitoring (EM) pilot study and concluded that a combination of EM and portside sampling was an appropriate substitute for ASM aboard midwater trawl vessels. However, rather than including EM and portside requirements in the IFM Amendment, the Council recommended that NMFS administer EM and portside sampling via an exempted fishing permit (EFP) for midwater trawl vessels during the first 2 years of IFM in the herring fishery. The Council is required to evaluate the effectiveness of the herring IFM program 2 years after implementation of the amendment. In July 2021, NMFS issued an EFP authorizing six herring vessels to use EM and portside sampling in lieu of ASM to satisfy their IFM requirements during the first year of IFM in the herring fishery. The issuance of this 2022 EFP would cover the second year of IFM in the herring fishery. The Council would consider lessons learned through the 2021 and 2022 EFPs when reviewing herring IFM requirements and considering how to most effectively and efficiently administer an EM and portside sampling program for the herring fishery.

Herring fishing effort has been limited in IFM year 2021 due to low annual catch limits (ACL). As of February 15, 2022, participating vessels completed 27 trips under the 2021 EFP:

- Eight trips were selected for IFM coverage. Coverage waivers were issued for seven of these trips, and one was portside sampled;
- One GCA trip was taken, and that trip was portside sampled; and
- Twelve trips were eligible for EM video review (*i.e.,* there was fishing effort). Video review had been completed for 11 of these trips.

Findings from the voluntary EM study, as well as analyses in the Environmental Assessment for the IFM Amendment, suggest that EM and portside sampling may be a more cost-effective monitoring option than at-sea monitors or observers for the herring fishery. Developing another permanent monitoring option for the herring fishery would give herring vessels additional flexibility to select the most cost-effective monitoring option for their fishing operations, which would help mitigate the negative economic impacts of recent reductions to herring ACLs. Additionally, information gathered through this EFP would also help further evaluate the utility of EM and portside sampling to monitor fishing in GCAs, and to monitor herring vessels fishing with purse seine or bottom trawl gear.

Project Description

The project period for this EFP would cover IFM year 2022 (April 1, 2022–March 31, 2023), contingent upon availability of funds. Under this EFP, up to 21 vessels holding Category A or B herring permits would be required to run EM systems (video cameras and gear sensors) on 100 percent of declared herring trips, except under the following circumstance: If a vessel using midwater trawl gear intends to operate as a wing vessel on a trip (meaning it will pair trawl with another midwater trawl vessel but will not pump or carry any fish onboard), and NMFS issues the wing vessel a waiver from IFM requirements for that trip, the wing vessel does not need to run its EM system during that trip. Declared herring trips include any trips declared using the herring (HER) plan code, or any trips where the vessel indicates that it is retaining herring when participating in the Atlantic mackerel (*e.g.,* mackerel trip with herring retention (MAH), mackerel trip with herring and squid retention (MHS)) or the squid fishery (*e.g.,* longfin squid trip with herring retention (SLH), longfin squid trip with herring and mackerel retention (LHM), *Illex* squid trip with herring retention (SIH), *Illex* squid trip with herring and mackerel retention(IHM)).

The purpose of EM is to confirm catch retention and verify compliance with slippage restrictions. Participating vessels would be required to run EM systems regardless of whether they are carrying an SBRM observer on trips that are selected for SBRM coverage. Participating vessels would be required to adhere to all normal reporting

requirements, except as exempted through this EFP. Participating vessels would be required to adhere to individual Vessel Monitoring Plans (VMP) when fishing under the EFP. Each vessel's VMP would outline the catch handling protocols and EM system configurations that the vessel would use while participating in the program. Vessels would not be permitted to fish under the EFP until they hold a NMFS-approved VMP.

NMFS contracted Saltwater Inc., as the EM service provider for this EFP during IFM year 2022. Vessels would be required to use Saltwater Inc., as the EM service provider when fishing under this EFP. The EM service provider would be responsible for developing VMPs for participating vessels. The EM service provider would also be responsible for: Installing, maintaining, and uninstalling EM equipment on participating vessels; reviewing EM video footage; processing and annotating video and sensor data; generating EM data analysis summaries; and working with NMFS personnel to review program performance for refinement.

Given anticipated low fishing effort during IFM year 2022, EM data from 100 percent of EFP trips with fishing effort would get selected for video review in order to learn as much as possible about administering an EM program through this EFP. Because the purpose of EM is to confirm catch retention and trips without fishing effort would have no catch, trips without fishing effort would not get selected for video review. EM video reviewers would identify (presence/absence) and characterize each discard event that occurs on reviewed trips.

Participating vessels would primarily fish with midwater trawl or purse seine gear on declared herring trips; however, some vessels may fish with small-mesh bottom trawl gear under the EFP. Prior to the start of each year, participating vessels would be required to inform the Principal Investigator (PI) and NMFS about which gears they planned to fish with at what points during the year. Participating vessels would also be required to notify the PI and NMFS one month ahead of when they planned to switch gears. Feedback from industry suggests that catch handling protocols remain consistent regardless of whether vessels fish with midwater trawl, purse seine, or small-mesh bottom trawl gear. However, when a vessel switches gears, EM technicians may need to reconfigure the cameras on board to ensure that they can still adequately capture fishing activity. After switching gears, the vessel may not depart on a declared herring trip until the EM service provider has confirmed that the EM system is properly configured and documented in the vessel's VMP.

Allowing vessels to switch gears during the year will incentivize participation in the EFP by allowing vessels flexibility to maximize fishing opportunities. Additionally, allowing participating vessels to fish with purse seine and small-mesh bottom trawl gear would provide NMFS with additional information on the effectiveness of using EM to monitor vessels fishing with these gear types, because the pilot study and the 2021 EFP focused primarily on vessels fishing with midwater trawl gear. Participation in the EFP is not expected to lead to any shifts in effort that would not otherwise have occurred in the fishery.

Portside Sampling

Prior to any declared herring trip, representatives from vessels with Category A or B permits are required to follow the usual notification process for monitoring coverage. NMFS will notify the vessel representative if a trip is selected for SBRM or IFM coverage. Consistent with the Council-recommended 50-percent IFM coverage target for herring vessels, 50 percent of EFP trips would be selected for coverage. If selected for IFM coverage, participating vessels would be subject to portside sampling on the selected trip in lieu of hiring an at-sea monitor. The purpose of portside sampling is to collect species composition data along with age and length information. If NMFS notifies a participating vessel that a trip has been selected for IFM coverage, that vessel would be required to procure portside sampling services from a NMFS-approved service provider. Consistent with the herring monitoring requirements at § 648.11(m)(1)(iv), the vessel would be prohibited from fishing for, taking, possessing, or landing any herring without procuring portside sampling services for that trip, unless NMFS issued the vessel a coverage waiver for that trip.

When a trip is portside sampled (*i.e.,* selected for IFM coverage or paying for portside sampling in order to fish in a GCA), participating vessels would be required to comply with slippage prohibitions and consequence measures, and they would need to offload their catch at a NMFS-approved sampling station. Sampling station owners would be responsible for maintaining sampling stations according to NMFS safety standards. Portside samplers would complete a safety inspection upon arrival at each sampling station, prior to the start of an offload. If a station failed to meet all of the requirements outlined in the safety inspection checklist, the participating vessel would be issued a one-time waiver by the portside sampler to continue the offload and an explanation of the safety deficiency refusal. The portside sampler would also report the safety deficiency refusal to NMFS. If the original safety deficiency was not addressed within 48 hours of being reported to NMFS, participating vessels would not be permitted to continue offloading at that location on trips selected for portside sampling until the station had been brought into compliance.

Slippage Requirements

If a participating vessel slipped catch on a trip that was portside sampled, that vessel would be subject to all of the following consequence measures:

- The vessel operator must move at least 15 nautical miles (nm) (27.78 km) from the location of the slippage event before deploying any gear again, and must stay at least 15 nm (27.78 km) away from the slippage event location for the remainder of the fishing trip;
- The vessel operator must complete and sign a Released Catch Affidavit detailing: The vessel name and permit number; the VTR serial number; where, when, and for what reason the catch was released; the estimated weight of each species brought on board or released on that tow. A completed affidavit must be submitted to NMFS within 48 hours of the end of the trip; and
- The vessel operator must report slippage events on the herring daily Vessel Monitoring System catch report and indicate the reason for slipping catch.

Fishing Inside of Groundfish Closed Areas

To comply with the 100-percent monitoring coverage requirement when fishing inside a GCA, participating vessels would be authorized to use EM and portside sampling, in lieu of carrying a human observer, even if not selected for IFM or SBRM coverage. A GCA trip that was portside sampled would not count towards the vessel's realized coverage rate if the trip was not selected for IFM or SBRM coverage. In other words, if a trip was not selected for either coverage type but the vessel elected to pay for optional portside sampling coverage in order to fish inside a GCA, that trip would not count towards the vessel's realized coverage rate.

Proposed Exemptions

General Exemptions for Participating Vessels

This EFP would exempt participating vessels from the IFM ASM coverage requirements at § 648.11(m)(1)(ii). This exemption would authorize participating vessels to use EM, coupled with portside sampling, to satisfy their IFM coverage requirements in lieu of carrying a human at-sea monitor.

Slippage Exemptions for Participating Vessels Fishing Outside of Groundfish Closed Areas

This EFP would exempt participating vessels from the slippage definition at § 648.2 under the following circumstance: Participating vessels fishing outside of GCAs would be authorized to discard fish sorted at the grate (with the exception of haddock) in view of a camera on trips selected for portside sampling. These discards would not be considered slippage and would not trigger slippage consequence measures, but vessels would still be required to report them as discards. This exemption would not apply when vessels are fishing inside GCAs. When fishing inside GCAs, fish discarded at the grate after sorting would be considered slippage and would trigger slippage consequence measures.

Vessels with observer or ASM coverage may discard fish at the grate after those fish are made available for sampling, and those discards are not considered slippage. However, fish discarded at the grate after sorting are considered slippage on vessels selected for portside sampling. This exemption would resolve operational differences resulting from the slippage definition and help create equity in vessel operations across gear and monitoring types. Feedback from industry suggests that only small quantities of fish are handpicked at the grate, so it is unlikely that this exemption would result in high volumes of fish being discarded prior to catch being sampled portside.

Observer Exemptions for Participating Vessels Fishing Inside of Groundfish Closed Areas

This EFP would exempt participating vessels from the Northeast multispecies season and area restrictions at § 648.202(b)(1), and from the prohibition against fishing in a Northeast multispecies closed area without an observer on board at § 648.14(r)(2)(v). The EFP would authorize participating vessels to use EM and portside sampling in lieu of carrying a human observer when fishing in a GCA on a trip not selected for SBRM coverage. Purchasing portside sampling coverage to fish in GCAs is expected to be less expensive than purchasing observer coverage to fish in GCAs, so this exemption would provide an incentive for vessels to participate in the EFP. This exemption would also allow NMFS to assess the feasibility of using EM and portside sampling to monitor midwater trawl herring trips fished in GCAs.

Operational Discarding Exemptions for Participating Vessels Fishing Inside of GCAs

This EFP would exempt participating vessels from season and area restrictions at § 648.202(b)(2) and (4) when operationally discarding catch. The EFP would authorize participating vessels to operationally discard catch in GCAs without triggering the consequence measures described at § 648.202(b)(4). Operational discards in the herring fishery are defined as ''small amounts of fish that cannot be pumped on board and remain in the codend or seine at the end of pumping operations.'' Midwater trawl vessels are permitted to operationally discard outside of GCAs without triggering consequence measures, but not inside GCAs. This exemption would allow participating vessels to maintain operational consistency inside and outside of GCAs. This exemption would also allow NMFS to collect additional information on the frequency of operational discards in GCAs. This exemption would not undermine conservation objectives because participating vessels would be fully monitored on 100 percent of trips and would be fully accountable for their catch in GCAs.

If approved, minor modifications and extensions to the EFP may be made throughout the year. EFP modifications and extensions may be granted without further notice if they are deemed essential to facilitate completion of the proposed research and have minimal impacts that do not change the scope or impact of the initially approved EFP request. Any fishing activity conducted outside the scope of the exempted fishing activity would be prohibited.

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

Dated: March 1, 2022.

Ngagne Jafnar Gueye,

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

[FR Doc. 2022–04868 Filed 3–7–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB689]

Pacific Island Pelagic Fisheries; False Killer Whale Take Reduction Plan; Trigger for the Southern Exclusion Zone Closure Met in 2021

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

ACTION: Notice; request for comments.

SUMMARY: In 2021, four observed mortalities or serious injuries (M&SI) of false killer whales occurred incidental to the Hawaii deep-set longline fishery within the U.S. Exclusive Economic Zone (EEZ) around Hawaii on January 18, 2021, March 26, 2021, April 17, 2021, and November 19, 2021. These M&SI met the established annual trigger of four observed M&SI for closing the Southern Exclusion Zone (SEZ) to deep-set longline fishing under the False Killer Whale Take Reduction Plan (Plan) regulations. In accordance with the Plan regulations a closure of the SEZ is required through the end of the fishing year. Because the injury determination for the fourth interaction meeting the trigger was not available until January 2022, the timeframe for closing the SEZ in 2021 had passed, and the SEZ was not closed. In accordance with the Plan regulations, the requirements for closure of the SEZ were met in 2021, therefore, if the trigger is met in 2022, the process for closure of the SEZ will follow the procedures described in the Plan regulations.

DATES: Comments on this notice must be received by April 7, 2022.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2022–0027 by either of the following methods:

Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *https://www.regulations.gov* and enter NOAA–NMFS–2022–0027 in the search box. Click the ''Comment'' icon, complete the required fields, and enter or attach your comments.

Mail: Submit written comments to Michael D. Tosatto, Regional Administrator, NMFS Pacific Islands Region (PIR), attention Diana Kramer, Protected Resources, 1845 Wasp Blvd., Bldg. 176, Honolulu, HI 96818.

Instructions: NMFS may not consider comments sent by any other method, to any other address or individual, or

received after the end of the comment period. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Diana Kramer, Protected Resources, NMFS Pacific Islands Regional Office, 808–725–5167, *diana.kramer@noaa.gov*; or Kristy Long, NMFS Office of Protected Resources, 301–427–8402, *kristy.long@noaa.gov*.

SUPPLEMENTARY INFORMATION: The Plan was implemented on December 31, 2012, pursuant to section 118(f) of the Marine Mammal Protection Act (MMPA) to reduce the level of M&SI of the Hawaii pelagic and Hawaii insular stocks of false killer whales incidental to the Hawaii longline fisheries (77 FR 71260; November 29, 2012). The Plan, based on consensus recommendations from the False Killer Whale Take Reduction Team (Team), was implemented by regulation and created the SEZ, which would be closed to deep-set longline fishing if a certain number (trigger) of false killer whale M&SI are observed incidental to the deep-set fishery in the EEZ. As described in the Plan regulations (50 CFR 229.37(d)(2)), the SEZ is bounded on the east at 154° 30′ W longitude, on the west at 165° W longitude, on the north by the boundaries of the Main Hawaiian Islands Longline Fishing Prohibited Area and Papahanaumokuakea Marine National Monument, and on the south by the EEZ boundary (see Figure 1). An SEZ closure is triggered if, after expanding the number of observed M&SI, the Hawaii pelagic stock's potential biological removal (PBR) level has been exceeded. On December 15, 2020, NMFS closed the SEZ after four observed false killer whale M&SI within the EEZ around Hawai'i incidental to the Hawaii deep-set longline fishery, following the trigger calculations as defined in the Plan (85 FR 81184; December 15, 2020).

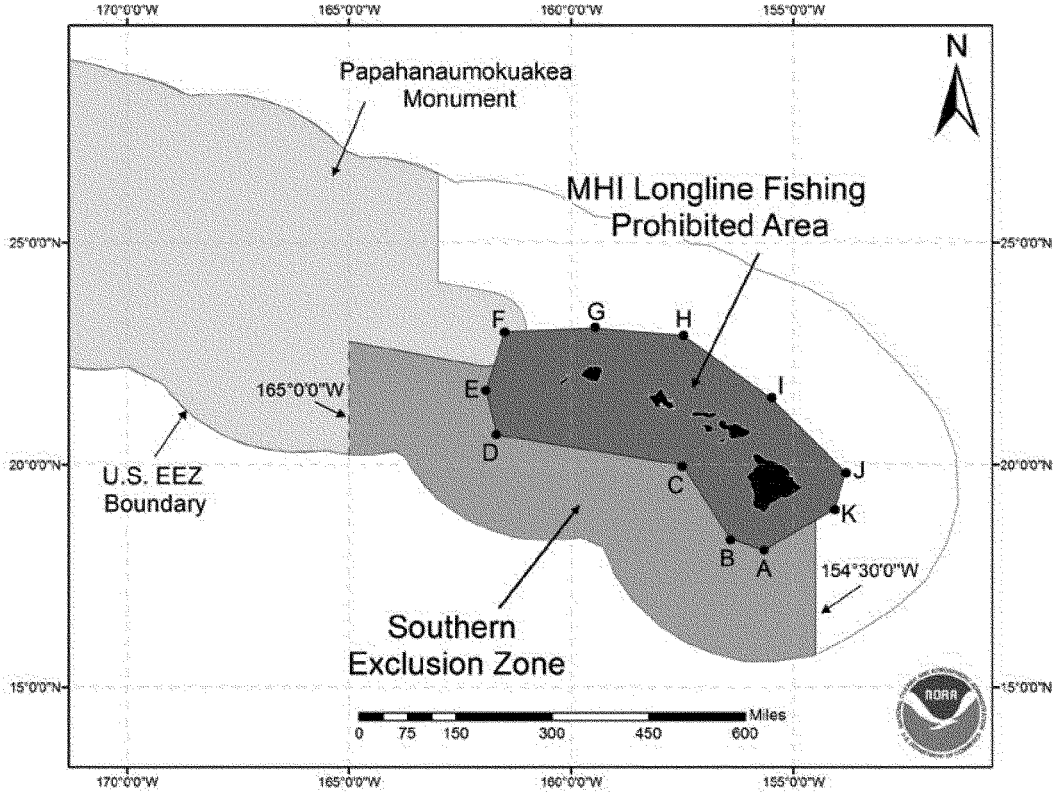

Figure 1. Southern Exclusion Zone

In 2021, NMFS-certified fishery observers documented four false killer whale interactions during deep-set trips inside the U.S. EEZ around Hawaii on the following dates: January 18, 2021, March 26, 2021, April 17, 2021, and November 19, 2021. Three of these interactions resulted in serious injuries and one resulted in a mortality. These four M&SI met the trigger for closure of the SEZ in 2021. NMFS has determined that the SEZ trigger (*i.e.,* four M&SI) has been met, and closing the SEZ to deep-set longline fishing is required until the end of the fishing year (December 31) as described in 50 CFR 229.37(e)(3). Under a plain reading of section 229.37(e)(3), NMFS applies the closure in the fishing year that the triggering M&SI occurs. Because the final injury determination for the fourth interaction meeting the trigger was not available until January 2022, the timeframe for closing the SEZ in 2021 had passed, and the SEZ was not closed in 2021. Therefore, the requirements for an SEZ closure under 50 CFR 229.37(e)(3) were met in 2021 and if the trigger is met in 2022, NMFS will follow the procedure for closing the SEZ until the reopening criteria are met as described in 50 CFR 229.37(e)(5).

Classification

Prior notice and comment is unnecessary because the take reduction plan final rule (77 FR 71259, November

29, 2012) that implements the procedures for closing the SEZ (codified at 50 CFR 229.37(e)) has already been subject to an extensive public process, including the opportunity for prior notice and comment. All that remains is to notify the public that the trigger for closing the SEZ under Plan regulations at 50 CFR 229.37(e)(3) was met in 2021, and that NMFS will proceed with the closure procedure under 50 CFR 229.37(e)(5) should the trigger be met in 2022.

Authority: 16 U.S.C. 1361 *et seq.*

Dated: March 2, 2022.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2022–04869 Filed 3–7–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2022–SCC–0034]

Agency Information Collection Activities; Comment Request; Cancer Treatment Deferment

AGENCY: Federal Student Aid (FSA), 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 May 9, 2022.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *https://www.regulations.gov* by searching the Docket ID number ED–2022–SCC–0034. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the *regulations.gov* site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov*. Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the PRA Coordinator of the Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave. SW, LBJ, Room 6W208D, Washington, DC 20202–8240.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, (202) 377–4018.

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: Cancer Treatment Deferment.

OMB Control Number: 1845–0154.

Type of Review: Extension without change of a currently approved collection.

Respondents/Affected Public: Individuals or Households .

Total Estimated Number of Annual Responses: 5,000.

Total Estimated Number of Annual Burden Hours: 833.

Abstract: The Department of Education (Department) is requesting an extension of the current Cancer Treatment Deferment Form information collection, OMB Control Number 1845–0154. This collection is used to obtain information from federal student loan borrowers to determine eligibility for a deferment of repayment of their federal student loan while receiving cancer treatment and for the 6-month period after such treatment. Section 309 of the Consolidated Appropriations Act, 2019, (Pub. L. 115–245) included a provision for the Department to implement this circumstance as a basis for deferment. Due to the effects of the COVID–19 pandemic and the suspension of the collection of loans, the Department lacks sufficient data to allow for updates to the usage of these forms.

Dated: March 3, 2022.

Kate Mullan,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2022–04846 Filed 3–7–22; 8:45 am]

BILLING CODE 4000–01–P

ELECTION ASSISTANCE COMMISSION

Voting System Anomaly Reporting and Root Cause Analysis; Survey and Submission to OMB of Proposed Collection of Information

AGENCY: U.S. Election Assistance Commission.

ACTION: Notice; request for comment.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the EAC announces an information collection and seeks public comment on the provisions thereof. The EAC intends to submit this proposed information collection to the Director of the Office of Management and Budget for approval. The U.S. Election Assistance Commission (EAC) is publishing two information collecting forms for its Voting System Testing and Certification Program. The information collected is to be used to improve the quality of voting systems used in federal elections. Participation in this program is voluntary. The program is mandated by the Help America Vote Act (HAVA).

DATES: Comments should be submitted by 5 p.m. on Tuesday, May 3, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent 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.

FOR FURTHER INFORMATION CONTACT: Paul Aumayr, Senior Election Technology Specialist, Testing and Certification Program, Washington, DC, (301)–563–3919. All requests and submissions should be identified by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Title and OMB Number

Voting System Anomaly Reporting and Root Cause Analysis; OMB Number Pending.

Purpose

Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires Federal Agencies to 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, the EAC is publishing notice of the proposed collection of information set forth in this document.

HAVA requires that the EAC certify and decertify voting systems. Section 231(a)(1) of HAVA (52 U.S.C. 20971) specifically requires the EAC to ''provide for the testing, certification, decertification and recertification of voting system hardware and software by accredited laboratories.'' To meet this obligation, the EAC has created a voluntary testing and certification program to test voting systems to federal voting system standards.

The program is to publish two forms. These are to be used to collect information concerning anomalies in voting systems used in federal elections. These forms will collect initial anomaly information as reported by voting system manufacturers and election officials. Root cause analysis of the anomalies, test results and findings will also be collected. This information is collected to improve the quality of voting systems used in federal elections.

Public Comments

We are soliciting public comments to permit the EAC to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Office of Grants Management.
- Evaluate the accuracy of our estimate of 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.

Annual Reporting Burden

OMB approval is requested for 3 years.

Respondents: State and Local Election Officials and Voting System Manufacturers.

Annual Burden Estimates

Estimated Burden in hours—165 hours.

Estimated Burden cost—$13,895.

Amanda Joiner,

Acting General Counsel, U.S. Election Assistance Commission.

[FR Doc. 2022–04822 Filed 3–7–22; 8:45 am]

BILLING CODE 6820–KF–P

ELECTION ASSISTANCE COMMISSION

Voting System Manufacturer Registration and Application for Testing; Survey and Submission to OMB of Proposed Collection of Information

AGENCY: U.S. Election Assistance Commission.

ACTION: Notice; request for comment.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the EAC announces an information collection and seeks public comment on the provisions thereof. The EAC intends to submit this proposed information collection to the Director of the Office of Management and Budget for approval. The U.S. Election Assistance Commission (EAC) is publishing two information collecting forms for its Voting System Testing and Certification Program. The information collected is to be used to improve the quality of voting systems used in federal elections. Participation in this program is voluntary. The program is mandated by the Help America Vote Act (HAVA).

DATES: Comments should be submitted by 5 p.m. on Tuesday, May 3, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent 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.

FOR FURTHER INFORMATION CONTACT: Paul Aumayr, Senior Election Technology Specialist, Testing and Certification Program, Washington, DC, (301) 563–3919. All requests and submissions should be identified by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Title and OMB Number

Voting System Manufacturer Registration and Application for Testing; OMB Number Pending.

Purpose

Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires Federal Agencies to 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, the EAC is publishing notice of the proposed collection of information set forth in this document.

HAVA requires that the EAC certify and decertify voting systems. Section 231(a)(1) of HAVA (52 U.S.C. 20971) specifically requires the EAC to ''provide for the testing, certification, decertification and recertification of voting system hardware and software by accredited laboratories.'' To meet this obligation, the EAC has created a voluntary testing and certification program to test voting systems to federal voting system standards.

The program is to publish two forms. An initial manufacturer registration form, and a voting system application form. These are to be used to collect information from voting system manufacturers who wish to participate in the program and the voting systems they intend to submit for testing and certification. The registration form collects information on the manufacturer ownership, contact details for certain directors and senior staff, and

the manufacturers quality processes. The voting system application collects administrative information on new or modified voting systems. This information is collected to improve the quality of voting systems used in federal elections.

Public Comments

We are soliciting public comments to permit the EAC to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Office of Grants Management.
- Evaluate the accuracy of our estimate of 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.

Annual Reporting Burden

OMB approval is requested for 3 years.

Respondents: Voting System Manufacturers.

Annual Burden Estimates

Estimated Burden in hours—12 hours.
Estimated Burden cost—$976.

Amanda Joiner,

Acting General Counsel, U.S. Election Assistance Commission.

[FR Doc. 2022–04818 Filed 3–7–22; 8:45 am]

BILLING CODE 6820–KF–P

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: EG22–61–000.

Applicants: MS Sunflower Project Company, LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of MS Sunflower Project Company, LLC.

Filed Date: 3/1/22.

Accession Number: 20220301–5366.

Comment Date: 5 p.m. ET 3/22/22.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1410–005; ER10–1823–003; ER16–1750–008; ER16–2601–006; ER17–2292–006; ER17–2381–005; ER19–1656–005; ER20–2123–003; ER20–2768–003.

Applicants: Greensville County Solar Project, LLC, Hardin Solar Energy LLC, Wilkinson Solar LLC, Scott-II Solar LLC, Southampton Solar, LLC, Summit Farms Solar, LLC, Eastern Shore Solar LLC, Dominion Energy Marketing, Inc., Virginia Electric and Power Company.

Description: Notice of Change in Status of Virginia Electric and Power Company, et al.

Filed Date: 3/1/22.

Accession Number: 20220301–5265.

Comment Date: 5 p.m. ET 3/22/22.

Docket Numbers: ER16–2019–006.

Applicants: Five Points Solar Park LLC.

Description: Compliance filing: Five Points Solar Park LLC Change in Status to be effective 10/1/2021.

Filed Date: 3/2/22.

Accession Number: 20220302–5170.

Comment Date: 5 p.m. ET 3/23/22.

Docket Numbers: ER20–1996–003; ER21–1187–002; ER21–1188–002; ER21–1370–003; ER21–1916–001.

Applicants: Assembly Solar III, LLC, Assembly Solar II, LLC, Prairie State Solar, LLC, Dressor Plains Solar, LLC, Assembly Solar I, LLC.

Description: Notice of Change in Status of Assembly Solar I, LLC, et al.

Filed Date: 3/1/22.

Accession Number: 20220301–5380.

Comment Date: 5 p.m. ET 3/22/22.

Docket Numbers: ER21–2445–001.

Applicants: Glacier Sands Wind Power, LLC.

Description: Notice of Non-Material Change in Status of Glacier Sands Wind Power, LLC.

Filed Date: 3/1/22.

Accession Number: 20220301–5376.

Comment Date: 5 p.m. ET 3/22/22.

Docket Numbers: ER21–2515–002.

Applicants: Dominion Energy South Carolina, Inc.

Description: Compliance filing: Order 676–J Compliance Filing to be effective 12/31/9998.

Filed Date: 3/2/22.

Accession Number: 20220302–5061.

Comment Date: 5 p.m. ET 3/23/22.

Docket Numbers: ER21–2652–003.

Applicants: Caddo Wind, LLC.

Description: Notice of Non-Material Change in Status of Caddo Wind, LLC.

Filed Date: 3/1/22.

Accession Number: 20220301–5257.

Comment Date: 5 p.m. ET 3/22/22.

Docket Numbers: ER22–477–001.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Tariff Amendment: 2022–03–02_Deficiency Response to Attachment GGG MHVDC Self-Funding to be effective 2/2/2022.

Filed Date: 3/2/22.

Accession Number: 20220302–5194.

Comment Date: 5 p.m. ET 3/23/22.

Docket Numbers: ER22–1140–000.

Applicants: Black Hills Colorado Electric, LLC.

Description: § 205(d) Rate Filing: Filing of Jurisdictional Agreements to be effective 12/31/9998.

Filed Date: 3/1/22.

Accession Number: 20220301–5262.

Comment Date: 5 p.m. ET 3/22/22.

Docket Numbers: ER22–1141–000.

Applicants: Black Hills Colorado Electric, LLC.

Description: § 205(d) Rate Filing: Filing of Jurisdictional Agreements—Wholesale Distribution Servs Rate Scheds to be effective 5/1/2022.

Filed Date: 3/1/22.

Accession Number: 20220301–5274.

Comment Date: 5 p.m. ET 3/22/22.

Docket Numbers: ER22–1142–000.

Applicants: Versant Power.

Description: Compliance filing: Order No. 676–J Compliance Filing and Request for Waivers to be effective 12/31/9998.

Filed Date: 3/2/22.

Accession Number: 20220302–5040.

Comment Date: 5 p.m. ET 3/23/22.

Docket Numbers: ER22–1145–000.

Applicants: Black Hills Colorado Electric, LLC.

Description: § 205(d) Rate Filing: Filing of Jurisdictional Agreements to be effective 12/31/9998.

Filed Date: 3/2/22.

Accession Number: 20220302–5062.

Comment Date: 5 p.m. ET 3/23/22.

Docket Numbers: ER22–1146–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2022–03–02_SA 1756 METC-Consumers Energy 15th Rev GIA (G479B) to be effective 2/1/2022.

Filed Date: 3/2/22.

Accession Number: 20220302–5070.

Comment Date: 5 p.m. ET 3/23/22.

Docket Numbers: ER22–1147–000.

Applicants: Idaho Power Company.

Description: § 205(d) Rate Filing: Section 4.2—Sliding Yearly Update to be effective 5/6/2022.

Filed Date: 3/2/22.

Accession Number: 20220302–5104.

Comment Date: 5 p.m. ET 3/23/22.

Docket Numbers: ER22–1148–000.
Applicants: Arizona Public Service Company.
Description: Compliance filing: OATT Modifications—Pursuant to Order 676–J to be effective 12/31/9998.
Filed Date: 3/2/22.
Accession Number: 20220302–5110.
Comment Date: 5 p.m. ET 3/23/22.
Docket Numbers: ER22–1149–000.
Applicants: Nevada Power Company.
Description: Compliance filing: Order No. 676–J Compliance to be effective N/A.
Filed Date: 3/2/22.
Accession Number: 20220302–5113.
Comment Date: 5 p.m. ET 3/23/22.
Docket Numbers: ER22–1150–000.
Applicants: ISO New England Inc.
Description: Compliance filing: ISO–NE; Revisions to Schedule 24 to Comply with Order No. 676–J to be effective 12/31/9998.
Filed Date: 3/2/22.
Accession Number: 20220302–5121.
Comment Date: 5 p.m. ET 3/23/22.
Docket Numbers: ER22–1151–000.
Applicants: Alabama Power Company, Georgia Power Company, Mississippi Power Company.
Description: Compliance filing: Alabama Power Company submits tariff filing per 35: OATT Attachment O Order No. 676–J Cyber and PFV Compliance Filing to be effective 12/31/9998.
Filed Date: 3/2/22.
Accession Number: 20220302–5125.
Comment Date: 5 p.m. ET 3/23/22.
Docket Numbers: ER22–1152–000.
Applicants: American Transmission Systems, Incorporated, PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: American Transmission Systems, Incorporated submits tariff filing per 35.13(a)(2)(iii): ATSI submits one ECSA, SA No. 6298 to be effective 5/2/2022.
Filed Date: 3/2/22.
Accession Number: 20220302–5136.
Comment Date: 5 p.m. ET 3/23/22.
Docket Numbers: ER22–1153–000.
Applicants: Mid-Atlantic Interstate Transmission, LLC, PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Mid-Atlantic Interstate Transmission, LLC submits tariff filing per 35.13(a)(2)(iii): MAIT submits seven ECSAs, SA Nos. 6292–6297 and 6299 to be effective 5/2/2022.
Filed Date: 3/2/22.
Accession Number: 20220302–5138.
Comment Date: 5 p.m. ET 3/23/22.
Docket Numbers: ER22–1154–000.
Applicants: PJM Interconnection, L.L.C.
Description: Tariff Amendment: Notice of Cancellation of ISA, Service Agreement No. 5235; Queue No. AB2–068 to be effective 5/22/2022.
Filed Date: 3/2/22.
Accession Number: 20220302–5144.
Comment Date: 5 p.m. ET 3/23/22.
Docket Numbers: ER22–1155–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Compliance filing: 2022–03–02_Attachment LL CMP NAESB WEQ Standards Compliance to be effective 6/2/2022.
Filed Date: 3/2/22.
Accession Number: 20220302–5149.
Comment Date: 5 p.m. ET 3/23/22.
Docket Numbers: ER22–1156–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Compliance filing: 2022–03–02_MISO–PJM JOA CMP NAESB WEQ Standards Compliance to be effective 6/2/2022.
Filed Date: 3/2/22.
Accession Number: 20220302–5155.
Comment Date: 5 p.m. ET 3/23/22.
Docket Numbers: ER22–1157–000.
Applicants: Southwest Power Pool, Inc.
Description: Compliance filing: Order No. 676–J Compliance Filing Revising the SPP–MISO JOA to be effective 6/2/2022.
Filed Date: 3/2/22.
Accession Number: 20220302–5158.
Comment Date: 5 p.m. ET 3/23/22.
Docket Numbers: ER22–1158–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Compliance filing: 2022–03–02_RS 8 Manitoba Hydro MISO Agreement NAESB WEQ Standards Compliance to be effective 6/2/2022.
Filed Date: 3/2/22.
Accession Number: 20220302–5162.
Comment Date: 5 p.m. ET 3/23/22.
Docket Numbers: ER22–1159–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Compliance filing: 2022–03–02_MISO–SPP JOA CMP NAESB WEQ Standards Compliance to be effective 6/2/2022.
Filed Date: 3/2/22.
Accession Number: 20220302–5164.
Comment Date: 5 p.m. ET 3/23/22.
Docket Numbers: ER22–1160–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Compliance filing: 2022–03–02_RS 46 Minnkota MISO Agreement NAESB WEQ Standards Compliance to be effective 6/2/2022.
Filed Date: 3/2/22.
Accession Number: 20220302–5167.
Comment Date: 5 p.m. ET 3/23/22.
Docket Numbers: ER22–1161–000.
Applicants: ISO New England Inc., Eversource Energy Service Company (as agent), New England Power Company.
Description: Compliance filing: ISO New England Inc. submits tariff filing per 35: Rev. to Schedules 20A and 21 of the ISO–NE Tariff to Comply with Order 676–J to be effective 12/31/9998.
Filed Date: 3/2/22.
Accession Number: 20220302–5174.
Comment Date: 5 p.m. ET 3/23/22.
Docket Numbers: ER22–1162–000.
Applicants: Tucson Electric Power Company.
Description: Compliance filing: Order 676–J Compliance Filing to be effective 12/31/9998.
Filed Date: 3/2/22.
Accession Number: 20220302–5178.
Comment Date: 5 p.m. ET 3/23/22.
Docket Numbers: ER22–1163–000.
Applicants: PJM Interconnection, L.L.C.
Description: Compliance filing: Order No. 676–J Compliance Revisions to JOA between PJM and MISO to be effective 6/2/2022.
Filed Date: 3/2/22.
Accession Number: 20220302–5181.
Comment Date: 5 p.m. ET 3/23/22.
Docket Numbers: ER22–1164–000.
Applicants: UNS Electric, Inc.
Description: Compliance filing: Order 676–J Compliance Filing to be effective 12/31/9998.
Filed Date: 3/2/22.
Accession Number: 20220302–5185.
Comment Date: 5 p.m. ET 3/23/22.
Docket Numbers: ER22–1165–000.
Applicants: PJM Interconnection, L.L.C.
Description: Compliance filing: Order No. 676–J Compliance Revisions to Tariff, Section 4.2 to be effective 6/2/2022.
Filed Date: 3/2/22.
Accession Number: 20220302–5187.
Comment Date: 5 p.m. ET 3/23/22.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings

can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 2, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–04873 Filed 3–7–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Number: PR22–26–000.

Applicants: Enable Oklahoma Intrastate Transmission, LLC.

Description: Submits tariff filing per 284.123(b),(e)+: Enable Revised Fuel Percentages April 1, 2022 through March 31, 2023 to be effective 4/1/2022.

Filed Date: 2/28/2022.

Accession Number: 20220228–5053.

Comments Due: 5 p.m. ET 3/21/22.

284.123(g) Protests Due: 5 p.m. ET 4/29/22.

Docket Numbers: PR22–27–000.

Applicants: Bay Gas Storage Company, LLC.

Description: Submits tariff filing per 284.123(b),(e)/: Bay Gas Storage LAUF Filing to be effective 3/1/2022.

Filed Date: 3/1/2022.

Accession Number: 20220301–5268.

Comments/Protest Due: 5 p.m. ET 3/22/22.

Docket Numbers: RP22–635–000.

Applicants: ANR Pipeline Company.

Description: Request for Waiver of Tariff Provision of ANR Pipeline Company.

Filed Date: 2/28/22.

Accession Number: 20220228–5388.

Comment Date: 5 p.m. ET 3/07/22.

Docket Numbers: RP22–650–000.

Applicants: Cheniere Corpus Christi Pipeline, LP.

Description: Compliance filing: CCCP Semi-Annual Transportation Retainage Adjustment Filing to be effective 4/1/2022.

Filed Date: 3/1/22.

Accession Number: 20220301–5047.

Comment Date: 5 p.m. ET 3/14/22.

Docket Numbers: RP22–651–000.

Applicants: Rockies Express Pipeline LLC.

Description: Compliance filing: REX 2022–03–01 Fuel and L&U Reimbursement Percentages and Power Cost Charges to be effective N/A.

Filed Date: 3/1/22.

Accession Number: 20220301–5048.

Comment Date: 5 p.m. ET 3/14/22.

Docket Numbers: RP22–652–000.

Applicants: Northern Natural Gas Company.

Description: § 4(d) Rate Filing: 20220301 Miscellaneous Filing to be effective 4/1/2022.

Filed Date: 3/1/22.

Accession Number: 20220301–5069.

Comment Date: 5 p.m. ET 3/14/22.

Docket Numbers: RP22–653–000.

Applicants: WBI Energy Transmission, Inc.

Description: § 4(d) Rate Filing: 2022 Negotiated & Non-Conforming SA—ONEOK to be effective 4/1/2022.

Filed Date: 3/1/22.

Accession Number: 20220301–5073.

Comment Date: 5 p.m. ET 3/14/22.

Docket Numbers: RP22–654–000.

Applicants: Columbia Gas Transmission, LLC.

Description: § 4(d) Rate Filing: MCRM 2022 to be effective 4/1/2022.

Filed Date: 3/1/22.

Accession Number: 20220301–5086.

Comment Date: 5 p.m. ET 3/14/22.

Docket Numbers: RP22–655–000.

Applicants: Discovery Gas Transmission LLC.

Description: § 4(d) Rate Filing: Discovery Gas Transmission LLC submits tariff filing per 154.204 Negotiated Rates to be effective 4/1/2022.

Filed Date: 3/1/22.

Accession Number: 20220301–5089.

Comment Date: 5 p.m. ET 3/14/22.

Docket Numbers: RP22–656–000.

Applicants: Transcontinental Gas Pipe Line Company, LLC.

Description: § 4(d) Rate Filing: Negotiated Rates—Cherokee AGL—Replacement Shippers—Mar 2022 to be effective 3/1/2022.

Filed Date: 3/1/22.

Accession Number: 20220301–5098.

Comment Date: 5 p.m. ET 3/14/22.

Docket Numbers: RP22–657–000.

Applicants: Cheniere Corpus Christi Pipeline, LP.

Description: Compliance filing: CCCP Electric Power Cost Adjustment to be effective 4/1/2022.

Filed Date: 3/1/22.

Accession Number: 20220301–5124.

Comment Date: 5 p.m. ET 3/14/22.

Docket Numbers: RP22–658–000.

Applicants: Algonquin Gas Transmission, LLC.

Description: § 4(d) Rate Filing: Negotiated Rates—Various Releases eff 3–1–2022 to be effective 3/1/2022.

Filed Date: 3/1/22.

Accession Number: 20220301–5127.

Comment Date: 5 p.m. ET 3/14/22.

Docket Numbers: RP22–659–000.

Applicants: El Paso Natural Gas Company, L.L.C.

Description: § 4(d) Rate Filing: Non-Conforming Agreements Update (Atmos) to be effective 4/1/2022.

Filed Date: 3/1/22.

Accession Number: 20220301–5131.

Comment Date: 5 p.m. ET 3/14/22.

Docket Numbers: RP22–660–000.

Applicants: NEXUS Gas Transmission, LLC.

Description: § 4(d) Rate Filing: Negotiated Rates—Various Releases eff 3–1–22 to be effective 3/1/2022.

Filed Date: 3/1/22.

Accession Number: 20220301–5134.

Comment Date: 5 p.m. ET 3/14/22.

Docket Numbers: RP22–661–000.

Applicants: WBI Energy Transmission, Inc.

Description: § 4(d) Rate Filing: 2022 Annual Fuel & Electric Power Reimbursement Adjustment to be effective 4/1/2022.

Filed Date: 3/1/22.

Accession Number: 20220301–5146.

Comment Date: 5 p.m. ET 3/14/22.

Docket Numbers: RP22–662–000.

Applicants: Equitrans, L.P.

Description: § 4(d) Rate Filing: Negotiated Rate Capacity Release Agreements—3/1/2022 to be effective 3/1/2022.

Filed Date: 3/1/22.

Accession Number: 20220301–5165.

Comment Date: 5 p.m. ET 3/14/22.

Docket Numbers: RP22–663–000.

Applicants: Transcontinental Gas Pipe Line Company, LLC.

Description: § 4(d) Rate Filing: 2022 Annual Transco Fuel Tracker to be effective 4/1/2022.

Filed Date: 3/1/22.

Accession Number: 20220301–5166.

Comment Date: 5 p.m. ET 3/14/22.

Docket Numbers: RP22–664–000.

Applicants: Carlsbad Gateway, LLC.

Description: Compliance filing: Carlsbad Gateway Initial Tariff Filing to be effective 4/1/2022.

Filed Date: 3/1/22.

Accession Number: 20220301–5168.

Comment Date: 5 p.m. ET 3/14/22.

Docket Numbers: RP22–665–000

Applicants: Northwest Pipeline LLC.

Description: § 4(d) Rate Filing: North Seattle and South Seattle Annual Charges Update Filing 2022 to be effective 4/1/2022.

Filed Date: 3/1/22.

Accession Number: 20220301–5191.

Comment Date: 5 p.m. ET 3/14/22.

Docket Numbers: RP22–666–000.

Applicants: Tallgrass Interstate Gas Transmission, LLC.

Description: § 4(d) Rate Filing: TIGT 2022–03–01 Fuel and L&U Reimbursement and Power Cost Tracker to be effective 4/1/2022.

Filed Date: 3/1/22.

Accession Number: 20220301–5203.

Comment Date: 5 p.m. ET 3/14/22.

Docket Numbers: RP22–667–000.

Applicants: Adelphia Gateway, LLC.

Description: § 4(d) Rate Filing: Adelphia Annual Transporter's Use and System Balancing Adjustment Filing March 1 to be effective 4/1/2022.

Filed Date: 3/1/22.

Accession Number: 20220301–5208.

Comment Date: 5 p.m. ET 3/14/22.

Docket Numbers: RP22–668–000.

Applicants: Enable Gas Transmission, LLC.

Description: § 4(d) Rate Filing: Negotiated Rate Filing—March 1, 2022 Summit to be effective 3/1/2022.

Filed Date: 3/1/22.

Accession Number: 20220301–5210.

Comment Date: 5 p.m. ET 3/14/22.

Docket Numbers: RP22–669–000.

Applicants: Transcontinental Gas Pipe Line Company, LLC.

Description: § 4(d) Rate Filing: Annual Electric Power Tracker Filing Effective April 1, 2022 to be effective 4/1/2022.

Filed Date: 3/1/22.

Accession Number: 20220301–5214.

Comment Date: 5 p.m. ET 3/14/22.

Docket Numbers: RP22–670–000.

Applicants: Gulf South Pipeline Company, LLC.

Description: § 4(d) Rate Filing: Cap Rel Neg Rate Agmt (Osaka 46428 to Uniper 54890) to be effective 3/1/2022.

Filed Date: 3/1/22.

Accession Number: 20220301–5252.

Comment Date: 5 p.m. ET 3/14/22.

Docket Numbers: RP22–671–000.

Applicants: KO Transmission Company.

Description: § 4(d) Rate Filing: 2022 Transportation Retainage Adjustment to be effective 4/1/2022.

Filed Date: 3/1/22.

Accession Number: 20220301–5259.

Comment Date: 5 p.m. ET 3/14/22.

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: March 2, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–04876 Filed 3–7–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 10489–020]

City of River Falls Municipal Utilities; Notice of Application Accepted for Filing, Soliciting Motions To Intervene and Protests, Ready for Environmental Analysis, and Soliciting Comments, Preliminary Terms and Conditions, and Preliminary Fishway Prescriptions

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Subsequent Minor License.

b. *Project No.:* 10489–020.

c. *Date filed:* August 26, 2021.

d. *Applicant:* City of River Falls Municipal Utilities (City of River Falls).

e. *Name of Project:* River Falls Hydroelectric Project (River Falls Project).

f. *Location:* The River Falls Project is located on the Kinnickinnic River in the City of River Falls in Pierce County, Wisconsin. The project does not occupy federal land.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Kevin Westhuis, Utility Director of the City of River Falls Municipal Utilities; *kwesthuis@rfcity.org* (preferred contact) or (715) 426–3442.

i. *FERC Contact:* Shana Wiseman at *shana.wiseman@ferc.gov* or (202) 502–8736.

j. Deadline for filing comments, recommendations, terms and conditions, and prescriptions: 60 days from the issuance date of this notice; reply comments are due 105 days from the issuance date of this notice.

The Commission strongly encourages electronic filing. Please file motions to intervene, protests, comments, recommendations, preliminary terms and conditions, and preliminary fishway prescriptions using the using the Commission's eFiling system at *https://ferconline.ferc.gov/FERCOnline.aspx.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *https://ferconline.ferc.gov/QuickComment.aspx.* 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 request. 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–10849–020.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted for filing and is now ready for environmental analysis.

The Council on Environmental Quality (CEQ) issued a final rule on July 15, 2020, revising the regulations under 40 CFR parts 1500–1518 that federal agencies use to implement NEPA (see Update to the Regulations Implementing the Procedural Provisions of the National Environmental Policy Act, 85 FR 43,304). The Final Rule became effective on and applies to any NEPA process begun after September 14, 2020. An agency may also apply the regulations to ongoing activities and environmental documents begun before September 14, 2020, which includes the proposed River Falls Project. Commission staff intends to conduct its NEPA review in accordance with CEQ's new regulations.

l. The River Falls Project consists of: (1) A 140-foot-long, 32-foot-high concrete dam; (2) an impoundment with a surface area of 15.5 acres; (3) a 200-foot-long, 6-foot-diameter penstock; (4) a

powerhouse containing one generating unit rated at 250 kilowatts; (5) a 50-foot-long transmission line; and (6) appurtenant facilities.

The River Falls Project is operated in a run-of-river mode with an estimated annual energy production of approximately 1,220,000 kilowatt hours. The City of River Falls proposes to continue operating the project as a run-of-river facility and does not propose any new construction to the project.

m. A copy of the application can be viewed on the Commission's website at *http://www.ferc.gov.* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. 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 *FERCOnllineSupport@ferc.gov.* or call toll-free, (886) 208–3676 or TTY, (202) 502–8659.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. 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, and .214. 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.

All filings must (1) bear in all capital letters the title ''PROTEST'', ''MOTION TO INTERVENE'', ''COMMENTS,'' ''REPLY COMMENTS,'' ''RECOMMENDATIONS,'' ''PRELIMINARY TERMS AND CONDITIONS,'' or ''PRELIMINARY FISHWAY PRESCRIPTIONS;'' (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 protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. A copy of all other filings in reference to this application 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 4.34(b) and 385.2010.

o. The license applicant must file no later than 60 days following the date of issuance of this notice: (1) A copy of the water quality certification; (2) a copy of the request for certification, including proof of the date on which the certifying agency received the request; or (3) evidence of waiver of water quality certification. Please note that the certification request must comply with 40 CFR 121.5(b), including documentation that a pre-filing meeting request was submitted to the certifying authority at least 30 days prior to submitting the certification request. Please note that the certification request must be sent to the certifying authority and to the Commission concurrently.

p. Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of this notice.

q. *Procedural schedule:* The application will be processed according to the following schedule. Revisions to the schedule will be made as appropriate.

Milestone	Target date
Deadline for Filing Protest, Motion to Intervene, Comments, Recommendations, Preliminary Terms and Conditions, and Preliminary Fishway Prescriptions.	May 2022.
Deadline for Filing Reply Comments	June 2022.

Dated: March 2, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–04872 Filed 3–7–22; 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 Inviting Post-Meeting Comments

On February 16, 2022, the Joint Federal-State Task Force on Electric Transmission convened for a public meeting.

All interested persons are invited to file post-meeting comments to address issues raised during the meeting and identified in the Agenda issued February 2, 2022. For reference, questions asked by the meeting moderator are included below. Comments must be submitted on or before 30 days from the date of this Notice.

Comments may be filed electronically via the internet.[1] Instructions are available on the Commission's website *http://www.ferc.gov/docs-filing/efiling.asp.* 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.

For more information about this Notice, please contact:

Michael Cackoski (Technical Information), Office of Energy Policy and Innovation, (202) 502–6169, *Michael.Cackoski@ferc.gov.*

Gretchen Kershaw (Legal Information), Office of the General Counsel, (202) 502–8213, *Gretchen.Kershaw@ferc.gov.*

Dated: March 2, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[1] *See* 18 CFR 385.2001(a)(1)(iii) (2021).

Topic 1: Discussion of Specific Categories and Types of Transmission Benefits That Transmission Providers Should Consider for the Purposes of Transmission Planning and Cost Allocation

- The three specific categories/types of transmission facilities considered for the purposes of transmission planning and cost allocation are reliability, economics, and public policy. Can and should these three categories and types of transmission that are considered for the purposes of transmission planning and cost allocation be expanded or changed? If so, what specific categories or types of benefits should be considered for the purposes of allocating the cost of transmission to ratepayers?
- Are the existing three categories of transmission being adequately considered or can they be improved upon—either separately or together—and if so how?
- Are there any specific benefits being considered by transmission providers today that should be more widely adopted by other transmission providers? Are certain benefits unique to specific regions?
- How should certainty of benefits be addressed? For example, should benefits be quantifiable? What tools are available or should be developed to account for uncertainty?

Topic 2: Discussion of Cost Allocation Principles, Methodologies, and Decision Processes for the Purposes of Transmission Planning and Cost Allocation

- Are current cost allocation methodologies used by transmission providers allocating costs roughly commensurate with estimated benefits, and if not, how should this be improved?
- Under what set of benefits—both existing and expanded—would states be amenable to bearing the costs of transmission that is expected to deliver those estimated benefits to ratepayers?
- Is there sufficient opportunity for stakeholders, including states, to collaborate in the development and approval of cost allocation methodologies to build consensus among and increase buy-in from stakeholders within a transmission planning region, and if not, how can this be improved?

[FR Doc. 2022–04874 Filed 3–7–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP21–94–000]

Transcontinental Gas Pipe Line Company, LLC; Notice of Availability of the Draft Environmental Impact Statement for the Proposed Regional Energy Access Expansion

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared a draft environmental impact statement (EIS) for the Regional Energy Access Expansion (Project), proposed by Transcontinental Gas Pipe Line Company, LLC (Transco) in the above-referenced docket. Transco requests authorization to construct and operate approximately 36.1 miles of pipeline loop [1] and one new compressor station, abandon and replace certain existing compression facilities, and modify existing compressor stations and facilities in Pennsylvania and New Jersey to provide about 829 million standard cubic feet of natural gas per day to multiple delivery points along Transco's existing system in Pennsylvania, New Jersey, and Maryland, providing customers with enhanced access to Marcellus and Utica Shale natural gas supplies.

The draft EIS assesses the potential environmental effects of the construction and operation of the Project in accordance with the requirements of the National Environmental Policy Act (NEPA). The FERC staff concludes that approval of the proposed Project, with the mitigation measures recommended in the EIS, would result in some adverse environmental impacts; however, with the exception of climate change impacts, those impacts would not be significant. The Project's annual operation and downstream emissions of 16.62 million metric tons of carbon dioxide equivalent would exceed the Commission's presumptive significance threshold based on 100 percent utilization.

The U.S. Environmental Protection Agency and U.S. Army Corps of Engineers participated as cooperating agencies in the preparation of the EIS. Cooperating agencies have jurisdiction by law or special expertise with respect to resources potentially affected by the proposal and participate in the NEPA analysis. The EIS is intended to fulfill the cooperating federal agencies' NEPA obligations, as applicable, and to support subsequent conclusions and decisions made by the cooperating agencies. Although cooperating agencies provide input to the conclusions and recommendations presented in the draft EIS, the agencies may present their own conclusions and recommendations in any applicable Records of Decision for the Project.

The draft EIS addresses the potential environmental effects of the construction and operation of the following Project facilities:

- Installation of 22.3 miles of 30-inch-diameter pipeline loop in Luzerne County, Pennsylvania (Regional Energy Lateral);
- installation of 13.8 miles of 42-inch-diameter pipeline loop in Monroe County, Pennsylvania (Effort Loop);
- installation of the new Compressor Station 201 (9,000 nominal horsepower [hp] at International Organization of Standardization [ISO] conditions) in Gloucester County, New Jersey);
- installation of two gas turbine driven compressor units (31,800 nominal hp at ISO conditions) at existing Compressor Station 505 in Somerset County, New Jersey to accommodate the abandonment and replacement of approximately 16,000 hp from eight existing internal combustion engine-driven compressor units and increase the certificated station compression by 15,800 hp;
- installation of a gas turbine compressor unit (63,742 nominal hp at ISO conditions) and modifications to three existing compressors at existing Compressor Station 515 in Luzerne County, Pennsylvania to accommodate the abandonment and replacement of approximately 17,000 hp from five existing gas-fired reciprocating engine driven compressors and increase the certificated station compression by 46,742 hp;
- uprate and rewheel two existing electric motor-driven compressor units at existing Compressor Station 195 in York County, Pennsylvania to increase the certificated station compression by 5,000 hp and accommodate the abandonment of two existing gas-fired reciprocating engine driven compressors, which total approximately 8,000 hp;
- modifications at existing compressor stations, meter stations, interconnects, and ancillary facilities in Pennsylvania, New Jersey, and Maryland; and
- installation of ancillary facilities such as mainline valves,

[1] A pipeline loop is a segment of pipe constructed parallel to an existing pipeline to increase capacity.

communication facilities, and pig launchers [2] and receivers.

The Commission mailed a copy of the *Notice of Availability* of the draft EIS to federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American tribes; potentially affected landowners and other interested individuals and groups; and newspapers and libraries in the Project area. The draft EIS is only available in electronic format. It may be viewed and downloaded from the FERC's website (*www.ferc.gov*), on the natural gas environmental documents page (*https://www.ferc.gov/industries-data/natural-gas/environment/environmental-documents*). In addition, the draft EIS may be accessed by using the eLibrary link on the FERC's website. Click on the eLibrary link (*https://elibrary.ferc.gov/eLibrary/search*) select ''General Search'' and enter the docket number in the ''Docket Number'' field, excluding the last three digits (*i.e.,* CP21–94). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

The draft EIS is not a decision document. It presents Commission staff's independent analysis of the environmental issues for the Commission to consider when addressing the merits of all issues in this proceeding. Any person wishing to comment on the draft EIS may do so. Your comments should focus on the draft EIS' disclosure and discussion of potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. To ensure consideration of your comments on the proposal in the final EIS, it is important that the Commission receive your comments on or before 5:00 p.m. Eastern Time on April 25, 2022.

For your convenience, there are four methods you can use to submit your comments to the Commission. The Commission will provide equal consideration to all comments received, whether filed in written form or provided orally. The Commission encourages electronic filing of comments and has staff available to assist you at (866) 208–3676 or *FercOnlineSupport@ferc.gov.* Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the eComment feature on the Commission's website (*www.ferc.gov*) under the link to FERC Online. This is an easy method for submitting brief, text-only comments on a project;

(2) You can file your comments electronically by using the eFiling feature on the Commission's website (*www.ferc.gov*) under the link to FERC Online. With 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.'' If you are filing a comment on a particular project, please select ''Comment on a Filing'' as the filing type; or

(3) You can file a paper copy of your comments by mailing them to the Commission. Be sure to reference the project docket number (CP21–94–000) 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, Maryland 20852.

(4) In lieu of sending written or electronic comments, the Commission invites you to attend one of the virtual public comment sessions its staff will conduct by telephone to receive comments on the draft EIS, scheduled as follows:

Date and time
Monday, March 28, 2022, 6:00–8:00 p.m. (EST), Call in number: 800–779–8625, Participant Passcode: 3472916.
Tuesday, March 29, 2022, 12:00–2:00 p.m. (EST), Call in number: 888–848–6716, Participant Passcode: 4258437.
Wednesday, March 30, 2022, 6:00–8:00 p.m. (EST), Call in number: 800–779–8625, Participant Passcode: 3472916.

The primary goal of these comment sessions is to have you identify the specific environmental issues and concerns with the draft EIS. There will not be a formal presentation by Commission staff when the session opens. Individual oral comments will be taken on a one-on-one basis with a court reporter present on the line. This format is designed to receive the maximum amount of oral comments, in a convenient way during the timeframe allotted, and is in response to the ongoing COVID–19 pandemic. Prospective commentors are encouraged to review the draft EIS to familiarize themselves with the Project prior to participating in the meeting.

Each comment session is scheduled from either 6:00 to 8:00 p.m. or else 12:00 p.m. (noon) to 2:00 p.m., Eastern Standard Time. You may call at any time after the listed start times, at which point you will be placed on mute and hold. Calls will be answered in the order they are received. Once answered, you will have the opportunity to provide your comment directly to a court reporter with FERC staff or representative present on the line. A time limit of 3 minutes will be implemented for each commentor.

Transcripts of all comments received during the comment sessions will be publicly available on FERC's eLibrary system (see page 2 of this notice for instructions on using eLibrary).

It is important to note that the Commission provides equal consideration to all comments received, whether filed in written form or provided at a virtual comment session.

Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR part 385.214). Motions to intervene are more fully described at *https://www.ferc.gov/how-intervene.* Only intervenors have the right to seek rehearing or judicial review of the Commission's decision. The Commission grants affected landowners and others with environmental concerns intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which no other party can adequately represent. Simply filing environmental comments will not give you intervenor status, but you do not need intervenor status to have your comments considered.

Questions?

Additional information about the Project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website (*www.ferc.gov*) using the eLibrary link. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription that allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with

[2] 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.

notification of these filings, document summaries, and direct links to the documents. Go to *https://www.ferc.gov/ferc-online/overview* to register for eSubscription.

Dated: March 2, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–04871 Filed 3–7–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Records Governing Off-the-Record Communications; Public Notice

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e) (1) (v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. The communications listed are grouped by docket numbers in ascending order. These filings are available for electronic review at the Commission in the Public Reference Room or may be viewed on the Commission's website at *http://www.ferc.gov* using the eLibrary link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202)502–8659.

Docket Nos.	File date	Presenter or requester
Prohibited:		
1. P–1494–438	2–15–2022	FERC Staff. [1]
2. CP21–57–000	2–16–2022	FERC Staff. [2]
3. CP21–57–000	2–16–2022	FERC Staff. [3]
4. CP21–57–000	2–16–2022	FERC Staff. [4]
5. CP21–57–000	2–16–2022	FERC Staff. [5]
6. CP21–57–000	2–16–2022	FERC Staff. [6]
7. CP21–57–000	2–16–2022	FERC Staff. [7]
8. CP21–57–000	2–16–2022	FERC Staff. [8]
9. CP21–57–000	2–17–2022	FERC Staff. [9]
10. CP21–57–000	2–17–2022	FERC Staff. [10]
11. CP21–57–000	2–17–2022	FERC Staff. [11]
12. CP21–57–000	2–17–2022	FERC Staff. [12]
13. CP21–57–000	2–17–2022	FERC Staff. [13]
14. CP21–57–000	2–17–2022	FERC Staff. [14]
15. CP21–57–000	2–18–2022	FERC Staff. [15]
16. CP21–57–000	2–18–2022	FERC Staff. [16]
17. CP21–57–000	2–22–2022	FERC Staff. [17]
18. CP21–57–000	2–22–2022	FERC Staff. [18]
19. CP21–57–000	2–22–2022	FERC Staff. [19]
20. CP21–57–000	2–22–2022	FERC Staff. [20]
21. CP21–57–000	2–22–2022	FERC Staff. [21]
22. CP21–57–000	2–22–2022	FERC Staff. [22]
23. CP21–57–000	2–22–2022	FERC Staff. [23]
24. CP21–57–000	2–22–2022	FERC Staff. [24]
25. CP21–57–000	2–22–2022	FERC Staff. [25]
26. CP21–57–000	2–22–2022	FERC Staff. [26]
27. CP21–57–000	2–22–2022	FERC Staff. [27]
28. CP21–57–000	2–23–2022	FERC Staff. [28]
29. CP21–57–000	2–23–2022	FERC Staff. [29]
30. CP21–57–000	2–23–2022	FERC Staff. [30]
31. CP21–57–000	2–23–2022	FERC Staff. [31]
32. CP21–57–000	2–23–2022	FERC Staff. [32]
33. CP21–57–000	2–23–2022	FERC Staff. [33]
34. CP21–57–000	2–23–2022	FERC Staff. [34]
35. CP21–57–000	2–23–2022	FERC Staff. [35]
36. CP21–57–000	2–23–2022	FERC Staff. [36]
37. CP21–57–000	2–23–2022	FERC Staff. [37]
38. CP21–57–000	2–23–2022	FERC Staff. [38]
39. CP21–57–000	2–23–2022	FERC Staff. [39]

Docket Nos.	File date	Presenter or requester
40. CP21–57–000	2–23–2022	FERC Staff.[40]
41. CP16–10–000	2–24–2022	FERC Staff.[41]
CP21–57–000		
Exempt:		
1. CP16–10–000	2–17–2022	U.S. Senator Mark R. Warner.
2. P–77–000	2–18–2022	U.S. Representative Jared Huffman.
3. CP17–458–000	2–23–2022	U.S. Representative Tom Cole.

[1] Emailed comments dated 2/6/2022 from Philip Moll.
[2] Emailed comments dated 2/15/2022 from Colleen Wysser.
[3] Emailed comments dated 2/15/2022 from Joseph Halajian.
[4] Emailed comments dated 2/16/2022 from Padma Dyvine.
[5] Emailed comments dated 2/16/2022 from Lib Hutchby.
[6] Emailed comments dated 2/16/2022 from Colleen Wysser.
[7] Emailed comments dated 2/16/2022 from Steven Norris.
[8] Emailed comments dated 2/14/2022 from Daniel Lawrence.
[9] Emailed comments dated 2/15/2022 from Joseph Halajian.
[10] Emailed comments dated 2/16/2022 from Lib Hutchby.
[11] Emailed comments dated 2/16/2022 from Padma Dyvine.
[12] Emailed comments dated 2/16/2022 from Steven Norris.
[13] Emailed comments dated 2/16/2022 from Colleen Wysser-Martin.
[14] Emailed comments dated 2/14/2022 from Carol Joan Patterson and 22 other individuals.
[15] Emailed comments dated 2/17/2022 from Colleen Wysser-Martin.
[16] Emailed comments dated 2/18/2022 from Sarah Howard.
[17] Emailed comments dated 2/14/2022 from Stephen Weissman.
[18] Emailed comments dated 2/14/2022 from Lucy Duff.
[19] Emailed comments dated 2/14/2022 from V Ra.
[20] Emailed comments dated 2/16/2022 from Padma Dyvine.
[21] Emailed comments dated 2/15/2022 from Louisa Gay.
[22] Emailed comments dated 2/18/2022 from David F. Gassman.
[23] Emailed comments dated 2/18/2022 from Colleen Wysser-Martin.
[24] Emailed comments dated 2/19/2022 from Colleen Wysser-Martin.
[25] Emailed comments dated 2/20/2022 from Colleen Wysser-Martin.
[26] Emailed comments dated 2/21/2022 from Carol Ohlendorf.
[27] Emailed comments dated 2/22/2022 from Steve Legge.
[28] Emailed comments dated 2/14/2022 from Amy Henry and 24 other individuals.
[29] Emailed comments dated 2/15/2022 from Colleen Wysser-Martin.
[30] Emailed comments dated 2/15/2022 from Joseph Halajian.
[31] Emailed comments dated 2/15/2022 from Louisa Gay.
[32] Emailed comments dated 2/16/2022 from Colleen Wysser-Martin.
[33] Emailed comments dated 2/16/2022 from Lib Hutchby.
[34] Emailed comments dated 2/16/2022 from Padma Dyvine.
[35] Emailed comments dated 2/16/2022 from Steven Norris.
[36] Emailed comments dated 2/17/2022 from Colleen Wysser-Martin.
[37] Emailed comments dated 2/18/2022 from Sarah Howard.
[38] Emailed comments dated 2/18/2022 from Colleen Wysser-Martin.
[39] Emailed comments dated 2/19/2022 from Colleen Wysser-Martin.
[40] Emailed comments dated 2/21/2022 from Carol Ohlendorf.
[41] Emailed comments dated 2/24/2022 from Steve Legge.

Dated: March 2, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–04875 Filed 3–7–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 8492–016]

McGee Creek Authority; Notice of Application for Surrender of License, Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Proceeding:* Application for surrender of license.

b. *Project No.:* 8492–016.

c. *Date Filed:* February 18, 2022.

d. *Licensee:* McGee Creek Authority.

e. *Name of Project:* McGee Creek Hydroelectric Project.

f. *Location:* The project is located at a U.S. Bureau of Reclamation Dam on McGee Creek in the City of Farris in Atoka County, Oklahoma.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Licensee Contact:* Chris Browning, McGee Creek Authority, 500 West Main, Suite 500, Oklahoma City, OK 73102, (405) 297–2822.

i. *FERC Contact:* Rebecca Martin, (202) 502–6012, *Rebecca.martin@ferc.gov*.

j. *Deadline for filing comments, interventions, and protests. Deadline for filing comments, motions to intervene, and protests:* April 1, 2021.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first

page of any filing should include docket number P–8492–016. Comments emailed to Commission staff are not considered part of the Commission record.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Request:* The Licensee proposes to surrender its license and remove the hydroelectric generator.

l. *Locations of the Application:* This filing may be viewed on the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. Agencies may obtain copies of the application directly from the applicant.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions To Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

Dated: March 2, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–04870 Filed 3–7–22; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2021–0728; FRL–9155–01–OCSPP]

Agency Information Collection Activities; Proposed Renewal and Request for Comment; Consolidation of Certain Reporting and Recordkeeping Under Section 8 of the Toxic Substances Control Act (TSCA).

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA), this document announces that EPA is planning to submit a request to renew and consolidate existing approved Information Collection Requests (ICRs) to the Office of Management and Budget (OMB). Before submitting the consolidated ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection that is summarized in this document. The consolidated ICR is entitled: ''Reporting and Recordkeeping Under Section 8 of the Toxic Substances Control Act (TSCA)'' and is identified under EPA ICR No. 2703.01 and OMB Control No. 2070-[NEW]. EPA is consolidating several ICRs covering reporting and recordkeeping activities under TSCA Section 8 to streamline the presentation of the paperwork burden estimates for these various activities and eliminate any duplication, which will in turn is expected to reduce the administrative burden for both the public reviewers and the Agency. The ICR and accompanying materials are available in the docket for public review and comment.

DATES: Comments must be received on or before May 9, 2022.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2021–0728, through the Federal eRulemaking Portal at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *https://www.epa.gov/dockets.*

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

FOR FURTHER INFORMATION CONTACT: Katherine Sleasman, Mission Support Division (7101M), Office of Program Support, Office of Chemical Safety and Pollution Prevention, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 566–1204; email address: *sleasman.katherine@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. What information is EPA particularly interested in?

Pursuant to PRA section 3506(c)(2)(A) (44 U.S.C. 3506(c)(2)(A)), EPA specifically solicits comments and information to enable it to:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility.

2. Evaluate the accuracy of the Agency's estimates of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.

3. Enhance the quality, utility, and clarity of the information to be collected.

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of

information technology, *e.g.,* permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

II. What information collection activity or ICR does this action apply to?

Title: Recordkeeping and Reporting Under Section 8 of the Toxic Substances Control Act (TSCA).

ICR numbers: EPA ICR No. 2703.01; OMB Control No. 2070-[NEW].

ICR status: This ICR reflects the consolidation of the following currently approved ICRs:

1. ''Health and Safety Data Reporting, Submission of Lists and Copies of Health and Safety Studies'' (EPA ICR No. 0575.16, OMB Control No. 2070–0004), which is currently approved through November 30, 2022;

2. ''Recordkeeping and Reporting Requirements for Allegations of Significant Adverse Reactions to Human Health or the Environment'' (EPA ICR No. 1031.12, OMB Control No. 2070–0017), currently approved and pending renewal (86 FR 58905, October 25, 2021) (FRL–9137–01–OMS);

3. ''TSCA Section 8(a) Preliminary Assessment Information Rule (PAIR)'' (EPA ICR No. 0586.14, OMB Control No. 2070–0054), which is currently approved through December 31, 2022; and

3. ''Chemical-Specific Rules, TSCA Section 8(a)'' (EPA ICR No. 1198.10, OMB Control No. 2070–0067), which expired June 30, 2018, and is pending reinstatement.

Under the PRA, 44 U.S.C. 3501 *et seq.,* an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers for certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: These ICRs all involve reporting and recordkeeping activities established under TSCA section 8 for specific chemical substances. Although imposed for a specific chemical substance, the activities are already established and only vary based on the specific authority under TSCA section 8 and the need for the information for that chemical. EPA is consolidating these ICRs to streamline the presentation of the paperwork burden estimates for these various activities, which will in turn facilitate and reduce the administrative burden for both the public reviewers and the Agency in terms of reviewing and updating the ICR every three years as required by the PRA, as well as to allow for a better assessment of the paperwork burden and costs associated with reporting and recordkeeping activities established under TSCA section 8 for specific chemical substances.

This ICR covers reporting and recordkeeping requirements imposed under the authorities in TSCA section 8, for persons who manufacture (the term ''manufacture'' includes import under TSCA) or process chemical substances, mixtures, or categories, or distribute them in commerce. The purpose of the information collection activities is to collect data that will help the Agency evaluate the potential for human health and environmental risks that may be caused by the manufacture, processing, and distribution in commerce of chemical substances, mixtures, or categories.

The TSCA section 8(a) Preliminary Assessment Information Rule (PAIR) requires manufacturers and importers of certain chemical substances to submit information about production, use, and/or exposure-related data. Under TSCA section 8(a), persons who manufacture, import, or process certain chemical substances or mixtures, or propose to manufacture, import, or process certain chemical substances or mixtures, are subject to chemical-specific rules promulgated under TSCA section 8(a). A chemical-specific ''8(a) rule'' requires more detailed and more types of information than is required by a PAIR rule. For example, a chemical-specific ''8(a) rule'' might require information that includes, but is not limited to, chemical names, categories of use, production volume, byproducts of chemical production, existing data on health and environmental effects, exposure data, and disposal information.

Under TSCA section 8(c), persons who manufacture, import, process, or distribute in commerce any chemical substance or mixture must keep records of significant adverse reactions to health or the environment, as determined by the Administrator by rule, alleged to have been caused by the substance or mixture. TSCA section 8(c) requires that allegations of adverse reactions to the health of employees be kept for thirty years, and all other allegations be kept for five years. The rule also prescribes the conditions under which a firm must submit or make the records available to a duly designated representative of the Administrator.

Finally, under TSCA section 8(d), persons, who manufacture, import, process, or distribute in commerce (or propose to manufacture, import, process, or distribute in commerce) certain chemical substances and mixtures, are required to submit to EPA lists and copies of health and safety studies in their possession which relate health and/or environmental effects of the chemical substances and mixtures. The 8(d) rules are codified in 40 CFR part 716. To comply, respondents must search their records to identify any health and safety studies in their possession, make copies of relevant studies, list studies that are currently in progress, and submit this information to EPA.

Burden statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average one hour per response. The consolidated ICR, a copy of which is available in the docket, provides a detailed explanation of this estimate, which is only briefly summarized here:

Respondents/Affected entities: Entities potentially affected by this ICR are manufacturers (including imports) or processors of chemical substances of mixtures, which are mostly chemical companies classified under the North American Industrial Classification System (NAICS) Codes 325 and 324.

Estimated total number of potential respondents: 13,294.

Frequency of response: On occasion.

Estimated average number of potential responses: 26,425.

Estimated total annual burden hours: 26,226 hours.

Estimated total annual costs: $5,109,515, which includes an estimated burden cost of $ 0 for non-burden hour paperwork costs, *e.g.,* capital investment or maintenance and operational costs.

III. Are there changes in the estimates from the last approvals?

This ICR will be submitted as a new ICR, which means that the total estimates for burden and costs provided in Unit IV. will be considered increases. However, since this ICR represents the consolidation and reinstatement of previously approved ICRs, the Agency compared the total estimates in this ICR to the estimated burden and costs previously approved. This identified an overall increase in the estimated total burden of 78 hours (26,226—26,148) and a corresponding increase in the estimated total burden cost of $ 297,119

[$5,109,515—$4,812,396]. This overall increase is due to the consolidation and reinstatement of the individual ICRs, and adjustments in EPA's estimates of the number of respondents, the activity burden, and updates to the wage rates and material costs to reflect 2021 dollars. These changes are adjustments.

IV. What is the next step in the process for this ICR?

EPA will consider the comments received and amend the consolidated ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** document pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity for the public to submit additional comments for OMB consideration. Once this ICR is approved by OMB, it will replace the existing ICRs.

If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: March 2, 2022.

Michal Freedhoff,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2022–04851 Filed 3–7–22; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL ELECTION COMMISSION

[Notice 2022–05]

Filing Dates for the Minnesota Special Elections in the 1st Congressional District

AGENCY: Federal Election Commission.

ACTION: Notice of filing dates for special election.

SUMMARY: Minnesota has scheduled special elections on May 24, 2022, and August 9, 2022, to fill the U.S. House of Representatives seat in the 1st Congressional District held by the late Representative Jim Hagedorn. Committees required to file reports in connection with the Special Primary Election on May 24, 2022, shall file a 12-day Pre-Primary Report. Committees required to file reports in connection with both the Special Primary and Special General Election on August 9, 2022, shall file a 12-day Pre-Primary, a 12-day Pre-General, and a 30-day Post-General Report.

FOR FURTHER INFORMATION CONTACT: Ms. Elizabeth S. Kurland, Information Division, 1050 First Street NE, Washington, DC 20463; Telephone: (202) 694–1100; Toll Free (800) 424–9530.

SUPPLEMENTARY INFORMATION:

Principal Campaign Committees

All principal campaign committees of candidates who participate in the Minnesota Special Primary and Special General Elections shall file a 12-day Pre-Primary Report on May 12, 2022; a 12-day Pre-General Report on July 28, 2022; and a 30-day Post-General Report on September 8, 2022. (See charts below for the closing date for each report.)

Note that these reports are in addition to the campaign committee's regular quarterly filings. (See charts below for the closing date for each report).

Unauthorized Committees (PACs and Party Committees)

Political committees not filing monthly are subject to special election reporting if they make previously undisclosed contributions or expenditures in connection with the Minnesota Special Primary or Special General Elections by the close of books for the applicable report(s). (See charts below for the closing date for each report.)

Committees filing monthly that make contributions or expenditures in connection with the Minnesota Special Primary or Special General Elections will continue to file according to the monthly reporting schedule.

Additional disclosure information for the Minnesota special elections may be found on the FEC website at *https://www.fec.gov/help-candidates-and-committees/dates-and-deadlines/.*

Disclosure of Lobbyist Bundling Activity

Principal campaign committees, party committees and leadership PACs that are otherwise required to file reports in connection with the special elections must simultaneously file FEC Form 3L if they receive two or more bundled contributions from lobbyists/registrants or lobbyist/registrant PACs that aggregate in excess of $20,200 during the special election reporting periods. (See charts below for closing date of each period.) 11 CFR 104.22(a)(5)(v), (b), 110.17(e)(2), (f).

CALENDAR OF REPORTING DATES FOR MINNESOTA SPECIAL ELECTIONS

Report	Close of books [1]	Reg./cert. & overnight mailing deadline	Filing deadline
Political Committees Involved in *Only* the Special Primary (05/24/2022) Must File			
Pre-Primary	05/04/2022	05/09/2022	05/12/2022
July Quarterly	06/30/2022	07/15/2022	07/15/2022
Political Committees Involved in Both the Special Primary (05/24/2022) and Special General (08/09/2022) Must File			
Pre-Primary	05/04/2022	05/09/2022	05/12/2022
July Quarterly	06/30/2022	07/15/2022	07/15/2022
Pre-General	07/20/2022	07/25/2022	07/28/2022
Post-General	08/29/2022	09/08/2022	09/08/2022
October Quarterly	09/30/2022	10/15/2022	[2] 10/15/2022
Political Committees Involved in *Only* the Special General (08/09/2022) Must File			
Pre-General	07/20/2022	07/25/2022	07/28/2022
Post-General	08/29/2022	09/08/2022	09/08/2022

CALENDAR OF REPORTING DATES FOR MINNESOTA SPECIAL ELECTIONS—Continued

Report	Close of books [1]	Reg./cert. & overnight mailing deadline	Filing deadline
October Quarterly	09/30/2022	10/15/2022	[2] 10/15/2022

[1] The reporting period always begins the day after the closing date of the last report filed. If the committee is new and has not previously filed a report, the first report must cover all activity that occurred before the committee registered as a political committee up through the close of books for the first report due.

[2] Notice that this filing deadline falls on a weekend or federal holiday. Filing deadlines are not extended when they fall on nonworking days. Accordingly, reports filed by methods other than registered, certified or overnight mail, or electronically, must be received before the Commission's close of business on the last business day before the deadline.

Dated: March 1, 2022.

On behalf of the Commission.

Allen Dickerson,

Chairman, Federal Election Commission.

[FR Doc. 2022–04898 Filed 3–7–22; 8:45 am]

BILLING CODE 6715–01–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 April 7, 2022.

A. Federal Reserve Bank of St. Louis (Holly A. Rieser, Manager) P.O. Box 442, St. Louis, Missouri 63166–2034. Comments can also be sent electronically to *Comments.applications@stls.frb.org:*

1. *Southern Bancorp, Inc., Arkadelphia, Arkansas;* to merge with FCB Financial Services, Inc., Marion, Arkansas, and thereby indirectly acquire Premier Bank of Arkansas, Jonesboro, Arkansas.

Board of Governors of the Federal Reserve System, March 3, 2022.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2022–04896 Filed 3–7–22; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

[Docket No. OP–1747]

Guidelines for Evaluating Account and Services Requests

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Supplemental notice and request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is issuing a supplemental notice and request for comment on updates to its proposed guidelines (Account Access Guidelines) for Federal Reserve Banks (Reserve Banks) to utilize in evaluating requests for access to Reserve Bank master accounts and services (accounts and services). The supplemental notice includes a new section of the proposed Account Access Guidelines that would establish a tiered-review framework to provide additional clarity on the level of due diligence and scrutiny to be applied to requests for Reserve Bank accounts and services.

DATES: Comments must be received on or before April 22, 2022.

FOR FURTHER INFORMATION CONTACT: Jason Hinkle, Assistant Director (202–912–7805), Division of Reserve Bank Operations and Payment Systems, or Sophia H. Allison, Senior Special Counsel (202–452–3565) or Gavin Smith, Senior Counsel (202–872–7578), Legal Division, Board of Governors of the Federal Reserve System. For users of TTY–TRS, please call 711 from any telephone, anywhere in the United States.

ADDRESSES: You may submit comments, identified by Docket No. OP–1765, by any of the following methods:

Agency Website: http://www.federalreserve.gov. Follow the instructions for submitting comments at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx.*

Email: regs.comments@federalreserve.gov. Include docket number in the subject line of the message.

Fax: (202) 452–3819 or (202) 452–3102.

Mail: Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments are available from the Board's website at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* 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 identifying or contact information. Public comments may also be viewed in-person in Room M–4365A, 2001 C St. NW, Washington, DC 20551, between 9:00 a.m. and 5:00 p.m. during federal business weekdays.

SUPPLEMENTARY INFORMATION:

I. Background

On May 5, 2021, the Board requested comment on proposed guidelines to be used by Reserve Banks in evaluating requests for accounts and services (Original Proposal).[1] The Original Proposal reflected the Board's policy goals of (1) ensuring the safety and soundness of the banking system, (2) effectively implementing monetary policy, (3) promoting financial stability, (4) protecting consumers, and (5) promoting a safe, efficient, inclusive,

[1] 86 FR 25865 (May 11, 2021).

and innovative payment system. The Original Proposal was also intended to ensure that Reserve Banks apply a transparent and consistent set of factors when reviewing requests for accounts and services (access requests).

The Original Proposal consisted of six principles. The first principle specified that only institutions that are legally eligible for access to Reserve Bank accounts and services would be considered for access. The remaining five principles addressed specific risks, ranging from narrow risks (such as risk to an individual Reserve Bank) to broader risks (such as risk to the U.S. financial system).[2] For each of these five principles, the Original Proposal set forth factors that Reserve Banks should consider when evaluating an institution's access request against the specific risk targeted by the principle. The identified factors are commonly used in the regulation and supervision of federally-insured institutions. The Board notes that, when applying the proposed Account Access Guidelines, the Reserve Bank would integrate to the extent possible the assessments of an institution by its state and/or federal supervisors into the Reserve Bank's own independent assessment of the institution's risk profile.

The Original Proposal noted that the application of the Guidelines to requests by federally-insured institutions should be fairly straightforward, while requests from non-federally insured institutions may require more extensive due diligence. This supplemental notice (Updated Proposal) includes the Original Proposal substantially as proposed but includes a new section 2 of the Account Access Guidelines that would incorporate a tiering framework based on an institution's characteristics. The three tiers would provide additional clarity on how the Reserve Banks would apply the principles in section 1 of the Account Access Guidelines to different types of institutions.

[2] The Account Access Guidelines were designed primarily as a risk management framework and, as such, focus on risks an institution's access could pose. The Board notes, however, that granting an access request could also have net benefits to the financial system, although these are not a focus of the Account Access Guidelines.

II. Overview of Comments on Original Proposal

The Board received 46 individual comment letters and 281 duplicate form letters in response to the Original Proposal. Nearly all the comment letters expressed general support for the proposed Account Access Guidelines, and most letters also made recommendations for improvements. Commenters represented several types of institutions, including (1) institutions with traditional charters, such as banks and credit unions, and their trade associations; (2) institutions with novel charters, such as cryptocurrency custody banks, and their trade associations; and (3) think tanks and non-profit advocacy groups. The views expressed by the first category of commenters often conflicted with the views expressed by the second category of commenters.[3] The duplicate form letters included recommendations that mirrored those submitted by trade associations for institutions with traditional charters.

III. Updated Proposal

The Account Access Guidelines listed in this Updated Proposal consist of two sections. Proposed section 1—which describes the six principles that the Reserve Banks would use in evaluating requests for accounts and services—is substantially the same as the Account Access Guidelines described in the Original Proposal.[4]

The Original Proposal noted that the application of the Account Access Guidelines to requests by federally-insured institutions should be fairly straightforward, while requests from non-federally insured institutions may require more extensive due diligence. The Updated Proposal includes a new section 2 of the Account Access Guidelines, which would establish a three-tiered review framework to provide additional clarity regarding the review process for different types of institutions.

Tier 1 would consist of eligible institutions that are federally-insured. These institutions are already subject to a comprehensive set of federal banking regulations, and, in most cases, detailed regulatory and financial information about these firms would be readily available. Accordingly, access requests by Tier 1 institutions would generally be subject to a less intensive and more streamlined review. In cases where the application of the Guidelines to Tier 1 institutions identifies potentially higher risk profiles, the institutions would receive additional attention.

Tier 2 would consist of eligible institutions that are not federally-insured but (i) are subject (by statute) to prudential supervision by a federal banking agency; and (ii) any holding company of which would be subject to Federal Reserve oversight (by statute or by commitments).[5] Tier 2 institutions would be subject to similar but not identical regulations as federally-insured institutions, and as a result, may present greater risks than Tier 1 institutions. Additionally, detailed regulatory and financial information regarding Tier 2 institutions is less likely to be available and may not be available in public form. Accordingly, access requests by Tier 2 institutions would generally receive an intermediate level of review.

Tier 3 would consist of eligible institutions that are not federally insured and not subject to prudential supervision by a federal banking agency at the institution or holding company level. Tier 3 institutions may be subject to a supervisory or regulatory framework that is substantially different from, and possibly weaker than, the supervisory and regulatory framework that applies to federally-insured institutions, and as a result may pose the highest level of risk. Detailed regulatory and financial information regarding Tier 3 institutions may not exist or may be unavailable. Accordingly, access requests by Tier 3 institutions would generally receive the strictest level of review.

The Board seeks comment on all aspects of the Updated Proposal.

[3] For example, many commenters in the first category suggested that institutions with novel charters should face a more challenging path to access accounts and services, while many commenters in the second category suggested that institutions with novel charters should face an easier path to access accounts and service.

[4] The Updated Proposal incorporates certain technical changes to Section 1. For example, some commenters read Principle 6 to suggest that Reserve Banks, rather than the Board, have the authority to establish the interest on reserve balances (IORB) rate. The Updated Proposal deletes the language that commenters read to suggest that Reserve Banks have the authority to establish the IORB rate.

[5] The Board would expect holding companies of Tier 2 entities to comply with similar requirements as holding companies subject to the Bank Holding Company Act.

IV. Updated Account Access Guidelines

Guidelines Covering Access to Accounts and Services at Federal Reserve Banks (Account Access Guidelines)

Section 1: Principles

The Board of Governors of the Federal Reserve System (Board) is adopting account access guidelines comprised of six principles to be used by Federal Reserve Banks (Reserve Banks) in evaluating requests for master accounts and access to Federal Reserve Bank financial services (access requests).[1] [2] The account access guidelines apply to requests from all institutions that are legally eligible to receive an account or services, as discussed in more detail in the first principle.[3] The Board expects the Reserve Banks to collaborate on reviews of account and service requests, as well as ongoing monitoring of accountholders, to ensure that the guidelines are implemented in a consistent and timely manner.

The Federal Reserve System's (Federal Reserve) approach to providing institutions with accounts and services depends on, among other things, whether the institution is legally eligible to obtain an account and on the Federal Reserve's policy goals of ensuring the safety and soundness of the banking system, effectively implementing monetary policy, promoting financial stability, protecting consumers, and promoting a safe, effective, efficient, accessible, and innovative payment system. The Board believes it is important to make clear that legal eligibility does not bestow a right to obtain an account and services. While decisions regarding individual access requests remain at the discretion of the individual Reserve Banks, the Board believes it is important that the Reserve Banks apply a consistent set of guidelines when reviewing such access requests to promote consistent outcomes across Reserve Banks and to facilitate equitable treatment across institutions.[4]

These account access guidelines also serve to inform requestors of the factors that a Reserve Bank will review in any access request and thereby allow a requestor to make any enhancements to its risk management, documentation, or other practices to attempt to demonstrate how it meets each of the principles.

These guidelines broadly outline considerations for evaluating access requests but are not intended to provide assurance that any specific institution will be granted an account and services. The individual Reserve Bank will evaluate each access request on a case-by-case basis. When applying these account access guidelines, the Reserve Bank should consider, to the extent possible, the assessments of an institution by state and/or federal supervisors into its independent analysis of the institution's risk profile. The evaluation of an institution's access request should also consider whether the request has the potential to set a precedent that could affect the Federal Reserve's ability to achieve its policy goals now or in the future.

If the Reserve Bank decides to grant an access request, it may impose (at the time of account opening, granting access to service, or any time thereafter) obligations relating to, or conditions or limitations on, use of the account or services as necessary to limit operational, credit, legal, or other risks posed to the Reserve Banks, the payment system, financial stability or the implementation of monetary policy or to address other considerations.[5] The account-holding Reserve Bank may, at its discretion, decide to place additional risk management controls on the account and services, such as real-time monitoring of account balances, as it may deem necessary to mitigate risks. If the obligations, limitations, or controls are ineffective in mitigating the risks identified or if the obligations, limitations, or controls are breached, the account-holding Reserve Bank may further restrict the institution's use of accounts and services or may close the account. Establishment of an account and provision of services by a Reserve Bank under these guidelines is not an endorsement or approval by the Federal Reserve of the institution. Nothing in the Board's guidelines relieves any institution from compliance with obligations imposed by the institution's supervisors and regulators.

Accordingly, Reserve Banks should evaluate how each institution requesting access to an account and services will meet the following principles.[6] Each principle identifies factors that Reserve Banks should consider when evaluating an institution against the specific risk targeted by the principle (several factors are pertinent to more than one principle). The identified factors are commonly used in the regulation and supervision of federally-insured institutions. As a result, the Board anticipates the application of the account access guidelines to access requests by federally-insured institutions will be fairly straightforward in most cases. However, Reserve Bank assessments of access requests from non-federally insured institutions may require more extensive due diligence. Reserve Banks monitor and analyze the condition of institutions with access to accounts and services on an ongoing basis. Reserve Banks should use the guidelines to re-evaluate the risks posed by an institution in cases where its condition monitoring and analysis indicate potential changes in the risk profile of an institution, including a significant change to the institution's business model.

1. Each institution requesting an account or services must be eligible under the Federal Reserve Act or other federal statute to maintain an account at a Federal Reserve Bank (Reserve Bank) and receive Federal Reserve services and should have a well-founded, clear, transparent, and enforceable legal basis for its operations.[7]

a. Unless otherwise specified by federal statute, only those entities that are member banks or meet the definition of a depository institution under section

[1] As discussed in the Federal Reserve's Operating Circular No. 1, an institution has the option to settle its Federal Reserve financial services transactions in its master account with a Reserve Bank or in the master account of another institution that has agreed to act as its correspondent. These principles apply to requests for either arrangement.

[2] Reserve Bank financial services mean all services subject to Federal Reserve Act, section 11A (''priced services'') and Reserve Bank cash services. Financial services do not include transactions conducted as part of the Federal Reserve's open market operations or administration of the Reserve Banks' Discount Window.

[3] These principles would not apply to accounts provided under fiscal agency authority or to accounts authorized pursuant to the Board's Regulation N (12 CFR 214), joint account requests, or account requests from designated financial market utilities, since existing rules or policies already set out the considerations involved in granting these types of accounts.

[4] The Board has issued these account access guidelines under its general supervision authority over the operations of the Reserve Banks, 12 U.S.C 248(j). Decisions on access to accounts and services are made by the Reserve Bank in whose District the requestor is located.

[5] The conditions imposed could include, for example, establishing a cap on the amount of balances held in the account. In addition, the Board may authorize a Reserve Bank to pay a different rate of interest on balances held in the account or may limit the amount of balances in the account that receive interest.

[6] The principles are designed to address risks posed by an institution having access to an account and services, ranging from narrow risks (*e.g.,* to an individual Reserve Bank) to broader risks (*e.g.,* to the overall economy). Review activities performed by the Reserve Bank may address several principles at once.

[7] These principles do not apply to accounts and services provided by a Reserve Bank (i) as depository and fiscal agent, such as those provided for the Treasury and for certain government-sponsored entities (12 U.S.C. 391, 393–95, 1823, 1435), (ii) to certain international organizations (22 U.S.C. 285d, 286d, 290o–3, 290i–5, 290l–3), (iii) to designated financial market utilities (12 U.S.C. 5465), (iv) pursuant to the Board's Regulation N (12 CFR 214), or (v) pursuant to the Board's Guidelines for Evaluating Joint Account Requests.

19(b) of the Federal Reserve Act are legally eligible to obtain Federal Reserve accounts and financial services.[8]

b. The Reserve Bank should assess the consistency of the institution's activities and services with applicable laws and regulations, such as Article 4A of the Uniform Commercial Code and the Electronic Fund Transfer Act. The Reserve Bank should also consider whether the design of the institution's services would impede compliance by the institution's customers with U.S. sanctions programs, Bank Secrecy Act (BSA) and anti-money-laundering (AML) requirements or regulations, or consumer protection laws and regulations.

2. Provision of an account and services to an institution should not present or create undue credit, operational, settlement, cyber or other risks to the Reserve Bank.

a. The Reserve Bank should incorporate, to the extent possible, the assessments of an institution by state and/or federal supervisors into its independent assessment of the institution's risk profile.

b. The Reserve Bank should confirm that the institution has an effective risk management framework and governance arrangements to ensure that the institution operates in a safe and sound manner, during both normal conditions and periods of idiosyncratic and market stress.

i. For these purposes, effective risk management includes having a robust framework, including policies, procedures, systems, and qualified staff, to manage applicable risks. The framework should at a minimum identify, measure, and control the particular risks posed by the institution's business lines, products and services. The effectiveness of the framework should be further supported by internal testing and internal audit reviews.

ii. The framework should be subject to oversight by a board of directors (or similar body) as well as oversight by state and/or federal banking supervisor(s).

iii. The framework should clearly identify all risks that may arise related to the institution's business (*e.g.,* legal, credit, liquidity, operational, custody, investment) as well as objectives regarding the risk tolerances for the management of such risks.

c. The Reserve Bank should confirm that the institution is in substantial compliance with its supervisory agency's regulatory and supervisory requirements.

d. The institution must, in the Reserve Bank's judgment:

i. Demonstrate an ability to comply, were it to obtain a master account, with Board orders and policies, Reserve Bank agreements and operating circulars, and other applicable Federal Reserve requirements.

ii. Be in sound financial condition, including maintaining adequate capital to continue as a going concern and to meet its current and projected operating expenses under a range of scenarios.

iii. Demonstrate the ability, on an ongoing basis (including during periods of idiosyncratic or market stress), to meet all of its obligations in order to remain a going concern and comply with its agreement for a Reserve Bank account and services, including by maintaining:

A. Sufficient liquid resources to meet its obligations to the Reserve Bank under applicable agreements, operating circulars, and Board policies;

B. The operational capacity to ensure that such liquid resources are available to satisfy all such obligations to the Reserve Bank on a timely basis; and

C. Settlement processes designed to appropriately monitor balances in its Reserve Bank account on an intraday basis, to process transactions through its account in an orderly manner and maintain/achieve a positive account balance before the end of the business day.

iv. Have in place an operational risk framework designed to ensure operational resiliency against events associated with processes, people, and systems that may impair the institution's use and settlement of Reserve Bank services. This framework should consider internal and external factors, including operational risks inherent in the institution's business model, risks that might arise in connection with its use of any Reserve Bank account and services, and cyber-related risks. At a minimum, the operational risk framework should:

A. Identify the range of operational risks presented by the institution's business model (*e.g.,* cyber vulnerability, operational failure, resiliency of service providers), and establish sound operational risk management objectives to address such risks;

B. Establish sound governance arrangements, rules, and procedures to oversee and implement the operational risk management framework;

C. Establish clear and appropriate rules and procedures to carry out the risk management objectives;

D. Employ the resources necessary to achieve its risk management objectives and implement effectively its rules and procedures, including, but not limited to, sound processes for physical and information security, internal controls, compliance, program management, incident management, business continuity, audit, and well-qualified personnel; and

E. Support compliance with the electronic access requirements, including security measures, outlined in the Reserve Banks' Operating Circular 5 and its supporting documentation.

3. Provision of an account and services to an institution should not present or create undue credit, liquidity, operational, settlement, cyber or other risks to the overall payment system.

a. The Reserve Bank should incorporate, to the extent possible, the assessments of an institution by state and/or federal supervisors into its independent assessment of the institution's risk profile.

b. The Reserve Bank should confirm that the institution has an effective risk management framework and governance arrangements to limit the impact that idiosyncratic stress, disruptions, outages, cyber incidents, or other incidents at the institution might have on other institutions and the payment system broadly. The framework should include:

i. Clearly defined operational reliability objectives and policies and procedures in place to achieve those objectives.

ii. A business continuity plan that addresses events that have the potential to disrupt operations and a resiliency objective to ensure the institution can resume services in a reasonable timeframe.

iii. Policies and procedures for identifying risks that external parties may pose to sound operations, including interdependencies with affiliates, service providers, and others.

c. The Reserve Bank should identify actual and potential interactions between the institution's use of a Reserve Bank account and services and (other parts of) the payment system.

i. The extent to which the institution's use of a Reserve Bank account and services might restrict funds from being available to support the liquidity needs of other institutions should also be considered.

d. The institution must, in the Reserve Bank's judgment:

[8] Unless otherwise expressly excluded under the previous footnote, these principles apply to account requests from all institutions, including member banks or other entities that meet the definition of a depository institution under section 19(b), as well as Edge and Agreement corporations (12 U.S.C. 601–604a, 611–631), and U.S. branches and agencies of foreign banks (12 U.S.C. 347d).

i. Be in sound financial condition, including maintaining adequate capital to continue as a going concern and to meet its current and projected operating expenses under a range of scenarios.

ii. Demonstrate the ability, on an ongoing basis (including during periods of idiosyncratic or market stress), to meet all of its obligations in order to remain a going concern and comply with its agreement for a Reserve Bank account and services, including by maintaining:

A. Sufficient liquid resources to meet its obligations to the Reserve Bank under applicable agreements, Operating Circulars, and Board policies;

B. The operational capacity to ensure that such liquid resources are available to satisfy all such obligations to the Reserve Bank on a timely basis; and

C. Settlement processes designed to appropriately monitor balances in its Reserve Bank account on an intraday basis, to process transactions through its account in an orderly manner and maintain/achieve a positive account balance before the end of the business day.

iii. Have in place an operational risk framework designed to ensure operational resiliency against events associated with processes, people, and systems that may impair the institution's payment system activities. This framework should consider internal and external factors, including operational risk inherent in the institution's business model, risk that might arise in connection with its use of the payment system, and cyber-related risks. At a minimum, the framework should:

A. Identify the range of operational risks presented by the institution's business model (*e.g.,* cyber vulnerability, operational failure, resiliency of service providers), and establish sound operational risk-management objectives;

B. Establish sound governance arrangements, rules, and procedures to oversee the operational risk management framework;

C. Establish clear and appropriate rules and procedures to carry out the risk management objectives;

D. Employ the resources necessary to achieve its risk management objectives and implement effectively its rules and procedures, including, but not limited to, sound processes for physical and information security, internal controls, compliance, program management, incident management, business continuity, audit, and well-qualified personnel.

4. Provision of an account and services to an institution should not create undue risk to the stability of the U.S. financial system.

a. The Reserve Bank should incorporate, to the extent possible, the assessments of an institution by state and/or federal supervisors into its independent assessment of the institution's risk profile.

b. The Reserve Bank should determine, in coordination with the other Reserve Banks and Board, whether the access to an account and services by an institution itself or a group of like institutions could introduce financial stability risk to the U.S. financial system.

c. The Reserve Bank should confirm that the institution has an effective risk management framework and governance arrangements for managing liquidity, credit, and other risks that may arise in times of financial or economic stress.

d. The Reserve Bank should consider the extent to which, especially in times of financial or economic stress, liquidity or other strains at the institution may be transmitted to other segments of the financial system.

e. The Reserve Bank should consider the extent to which, especially during times of financial or economic stress, access to an account and services by an institution itself (or a group of like institutions) could affect deposit balances across U.S. financial institutions more broadly and whether any resulting movements in deposit balances could have a deleterious effect on U.S. financial stability.

i. Balances held in Reserve Bank accounts are high-quality liquid assets, making them very attractive in times of financial or economic stress. For example, in times of stress, investors that would otherwise provide short-term funding to nonfinancial firms, financial firms, and state and local governments could rapidly withdraw that funding and instead deposit their funds with an institution holding mostly central bank balances. If the institution is not subject to capital requirements similar to a federally-insured institution, it can more easily expand its balance sheet during times of stress; as a result, the potential for sudden and significant deposit inflows into that institution is particularly large, which could disintermediate other parts of the financial system, greatly amplifying stress.

5. Provision of an account and services to an institution should not create undue risk to the overall economy by facilitating activities such as money laundering, terrorism financing, fraud, cybercrimes, economic or trade sanctions violations, or other illicit activity.

a. The Reserve Bank should incorporate, to the extent possible, the assessments of an institution by state and/or federal supervisors into its independent assessment of the institution's risk profile.

b. The Reserve Bank should confirm that the institution has a BSA/AML compliance program consisting of the components set out below and in relevant regulations.[9]

i. For these purposes, the Reserve Bank should confirm that the institution's BSA/AML compliance program contains the following elements: [10]

A. A system of internal controls, including policies and procedures, to ensure ongoing BSA/AML compliance;

B. Independent audit and testing of BSA/AML compliance to be conducted by bank personnel or by an outside party;

C. Designation of an individual or individuals responsible for coordinating and monitoring day-to-day compliance (BSA compliance officer);

D. Ongoing training for appropriate personnel, tailored to each individual's specific responsibilities, as appropriate;

E. Appropriate risk-based procedures for conducting ongoing customer due diligence to include, but not limited to, understanding the nature and purpose of customer relationships for the purpose of developing a customer risk profile and conducting ongoing monitoring to identify and report suspicious transactions and, on a risk basis, to maintain and update customer information;

c. The Reserve Bank should confirm that the institution has a compliance program designed to support its compliance with the Office of Foreign Assets Control (OFAC) regulations at 31 CFR Chapter V.[11]

i. For these purposes, the Reserve Bank may review the institution's written OFAC compliance program, provided one has been created, and confirm that it is commensurate with the institution's OFAC risk profile. An OFAC compliance program should identify higher-risk areas, provide for appropriate internal controls for

[9] Refer to 12 CFR 208.62 and 63, 12 CFR 211.5(k), 5(m), 24(f), and 24(j), and 12 CFR 225.4(f) (Federal Reserve); 12 CFR 326.8 and 12 CFR part 353 (FDIC); 12 CFR 748.1–2 (NCUA); 12 CFR 21.11, and 21, and 12 CFR 163.180 (OCC); and 31 CFR 1020.210(a) and (b), and 31 CFR 1020.320 (FinCEN), which are controlling.

[10] Reserve Banks may reference the FFIEC BSA/AML Manual. These guidelines may be updated to reflect any changes to relevant regulations.

[11] Reserve Banks may reference the OFAC section of the FFIEC BSA/AML Manual. These guidelines may be updated to reflect any changes to relevant regulations.

screening and reporting, establish independent testing for compliance, designate a bank employee or employees as responsible for OFAC compliance, and create a training program for appropriate personnel in all relevant areas of the institution.

6. Provision of an account and services to an institution should not adversely affect the Federal Reserve's ability to implement monetary policy.

a. The Reserve Bank should incorporate, to the extent possible, the assessments of an institution by state and/or federal supervisors into its independent assessment of the institution's risk profile.

b. The Reserve Bank should determine, in coordination with the other Reserve Banks and the Board, whether access to an account and services by an institution itself or a group of like institutions could have an effect on the implementation of monetary policy.

c. The Reserve Bank should consider, among other things, whether access to a Reserve Bank account and services by the institution could affect the level and variability of the demand for and supply of reserves, the level and volatility of key policy interest rates, the structure of key short-term funding markets, and on the overall size of the consolidated balance sheet of the Reserve Banks. The Reserve Bank should consider the implications of providing an account to the institution in normal times as well as in times of stress. This consideration should occur regardless of the current monetary policy implementation framework in place.

Section 2: Tiered Review Framework

The tiered review framework in this section is meant to serve as a guide to the level of due diligence and scrutiny to be applied by Reserve Banks to different types of institutions. Although institutions in a higher tier will face greater due diligence and scrutiny than institutions in a lower tier, a Reserve Bank has the authority to grant or deny an access request by an institution in any of the three proposed tiers, based on the Reserve Bank's application of the Guidelines in Section 1 to that particular institution.

1. *Tier 1:* Eligible institutions that are federally insured.

a. As federally-insured depository institutions, Tier 1 institutions are already subject to a standard, strict, and comprehensive set of federal banking regulations.

b. In addition, for most Tier 1 institutions, detailed regulatory and financial information would in most cases be readily available, often in public form.

c. Accordingly, access requests by Tier 1 institutions will generally be subject to a less intensive and more streamlined review.

d. In cases where the application of the Guidelines to Tier 1 institutions identifies potentially higher risk profiles, the institutions will receive additional attention.

2. *Tier 2:* Eligible institutions that are not federally insured, but that are subject to federal prudential supervision at the institution and, if applicable, at the holding company level.

a. Although not federally insured, Tier 2 institutions are subject to prudential supervision at the institution level by a federal banking agency (by statute). In addition, any holding company of a Tier 2 institution would be subject to Federal Reserve oversight (by statute or by commitments).

b. Tier 2 institutions are subject to a similar, but not identical, set of regulations as federally-insured institutions. As a result, Tier 2 institutions may still present greater risks than Tier 1 institutions.

c. In addition, detailed regulatory and financial information regarding such institutions may be less available or may not be available in public form.

d. Accordingly, account access requests by Tier 2 institutions will generally receive an intermediate level of review.

3. *Tier 3:* Eligible institutions that are not federally insured and that are not subject to federal prudential supervision at the institution and holding company level.

a. Tier 3 institutions may be subject to a supervisory or regulatory framework that is substantially different from, and less rigorous than, the supervisory and regulatory framework that applies to federally-insured institutions.

b. In addition, detailed regulatory and financial information regarding Tier 3 institutions may not exist or may be unavailable.

c. Accordingly, Tier 3 institutions will generally receive the strictest level of review.

By order of the Board of Governors of the Federal Reserve System.

Ann Misback,

Secretary of the Board.

[FR Doc. 2022–04897 Filed 3–7–22; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Notice of Award of a Single-Source Cooperative Agreement To Fund the National AIDS and STDs Control Program (NASCP) Within the Federal Ministry of Health (FMOH), Nigeria

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Disease Control and Prevention (CDC), located within the Department of Health and Human Services (HHS), announces the award of approximately $3,000,000, for Year 1 funding to the National AIDS and STDs Control Program (NASCP) within the Federal Ministry of Health (FMOH). The award will involve substantial engagement with CDC-supported states with the objective of establishing HIV/AIDS programmatic sustainability including the achievement and maintenance of HIV/AIDS epidemic control at national and sub-national levels and across all sub-populations. Funding amounts for years 2–5 will be set at continuation.

DATES: The period for this award will be September 30, 2022 through September 29, 2027.

FOR FURTHER INFORMATION CONTACT: Andrew Abutu, Center for Global Health, Centers for Disease Control and Prevention, National AIDS and STDs Control Program (NASCP), Plot 1075, Diplomatic Drive, Central Business District, Abuja, Nigeria, Telephone: 800–232–6348, Email: *kdy7@cdc.gov.*

SUPPLEMENTARY INFORMATION: The single-source award will implement a capacity building and government engagement initiative that progressively increases the managerial, technical, and financial investments of the Government of Nigeria (GON) in the HIV response at national and sub-national levels.

NASCP is a division of the Department of Public Health within the FMOH. NASCP is in a unique position to conduct this work, as it is the lead GON organization in Nigeria for leading and coordinating the national HIV/AIDS health sector response. Given its role as the lead GON organization for developing HIV/AIDS policy and program implementation across all states in Nigeria, NASCP is the sole authority qualified to perform essential programmatic activities and to implement a capacity building and

government engagement initiative that progressively increases the managerial, technical, and financial investments of GON in the HIV response to foster sustainability at national and sub-national levels.

Summary of the Award

Recipient: National AIDS and STDs Control Program (NASCP) within the Federal Ministry of Health (FMOH).

Purpose of the Award: The purpose of this award is to strengthen Nigeria's human and institutional capacity at national and sub-national levels for the sustainability of the national HIV program. The execution of this system strengthening agenda will be implemented in partnership with Nigeria's NASCP within the FMOH. The award will involve substantial engagement with CDC-supported states with the objective of establishing HIV/AIDS programmatic sustainability including the achievement and maintenance of HIV/AIDS epidemic control at national and sub-national levels and across all sub-populations.

Amount of Award: The approximate year 1 funding amount will be $3,000,000 in Federal Fiscal Year (FYY) 2022 funds, subject to the availability of funds. Funding amounts for years 2–5 will be set at continuation.

Authority: This program is authorized under Public Law 108–25 (the United States Leadership Against HIV AIDS, Tuberculosis and Malaria Act of 2003).

Period of Performance: September 30, 2022 through September 29, 2027.

Dated: March 2, 2022.

Terrance Perry,

Chief Grants Management Officer, Centers for Disease Control and Prevention.

[FR Doc. 2022–04789 Filed 3–7–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Notice of Award of a Single-Source Cooperative Agreement To Fund Southern Nations, Nationalities, and Peoples Regional Health Bureaus, Ethiopia

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Disease Control and Prevention (CDC), located within the Department of Health and Human Services (HHS), announces the award of approximately $6,000,000 for Year 1 of funding to the Southern Nations, Nationalities, and Peoples Regional Health Bureaus (SNNPRHB). The award will ensure continuity of quality comprehensive HIV/AIDS prevention, care, and treatment services for controlling the HIV epidemic in SNNPR in Ethiopia. Funding amounts for years 2–5 will be set at continuation.

DATES: The period for this award will be September 30, 2022 through September 29, 2027.

FOR FURTHER INFORMATION CONTACT: Tesfaye Desta, Center for Global Health, Centers for Disease Control and Prevention, US Embassy-Addis Ababa, Entoto Road, Addis Ababa, Ethiopia, Telephone: 800–232–6348, Email: *hmz4@cdc.gov.*

SUPPLEMENTARY INFORMATION: The single-source award will implement activities and provide support regarding prevention, testing and counselling, prevention of mother to child transmission, care and treatment, laboratory, Strategic Information (M&E, Surveillance, HIS), TB/HIV and other public health needs affecting HIV/AIDS programming like COVID–19 in the Southern Nations, Nationalities, and Peoples Region.

The award will support the strengthening of public health response and programs, including but not limited to HIV/AIDS, in the SNNPR. SNNPRHB is in a unique position to conduct this work as it is the only government entity with a legal authority (proclamation number 180//2019) and mandate to plan, manage, administer, and coordinate all health-related activities in the region.

Summary of the Award

Recipient: Southern Nations, Nationalities, and Peoples Regional Health Bureaus (SNNPRHB).

Purpose of the Award: The purpose of this award is to ensure continuity of quality comprehensive HIV/AIDS prevention, care, and treatment services for controlling the HIV epidemic in SNNPR in Ethiopia. This NOFO will help the region close gaps to achieve the 95–95–95 goals (95% of HIV-positive individuals knowing their status, 95% of those receiving antiretroviral therapy [ART], and 95% of those achieving viral suppression) and reach HIV epidemic control.

Amount of Award: The approximate year 1 funding amount will be $6,000,000 in Federal Fiscal Year (FFY) 2022 funds, subject to the availability of funds. Funding amounts for years 2–5 will be set at continuation.

Authority: This program is authorized under Public Law 108–25 (the United States Leadership Against HIV AIDS, Tuberculosis and Malaria Act of 2003).

Period of Performance: September 30, 2022 through September 29, 2027.

Dated: March 2, 2022.

Terrance W. Perry,

Chief Grants Management Officer, Centers for Disease Control and Prevention.

[FR Doc. 2022–04812 Filed 3–7–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Notice of Award of a Single-Source Cooperative Agreement To Fund Ministry of Women, Families and Children (MFFE), Cote D'Ivoire

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Disease Control and Prevention (CDC), located within the Department of Health and Human Services (HHS), announces the award of approximately $3,000,000 for Year 1 of funding to the Ministry of Women, Families and Children (MFFE). The award will continue to build a sustainable national response to address the needs of Orphans and Vulnerable Children (OVC) and their families and others highly affected by HIV/AIDS. Annual award amounts for years 2–5 will be set at continuation.

DATES: The period for this award will be September 30, 2022 through September 29, 2027.

FOR FURTHER INFORMATION CONTACT: Titania Techeira, Center for Global Health, Centers for Disease Control and Prevention, CDC Côte d'Ivoire, U.S. Embassy B.P. 730 Abidjan Cidex 03, Telephone: 800–232–6348, Email: *iux2@cdc.gov.*

SUPPLEMENTARY INFORMATION: The single-source award will build on experience to improve the Ministry's capacity to achieve an AIDS-free generation by increasing adherence and retention in care and viral load suppression through child and family protection services. This award will also help refine the restructured social center model and strengthen social systems through increased financial and human resource allocation and evidence-driven planning of the HIV program.

On October 9, 2003, The National Program of Care and Support for

Orphans and Vulnerable Children (PNOEV) was created. In December of that same year, it was officially decreed as an acting body of the MFFE; making the MFFE the only government institution that can do the following: (1) Reinforce collaboration between community-based organizations (CBOs) and health facilities; (2) Work closely with the Institute National de Formation Social (INFS) to improve financial, administrative, and management modules; (3) Work with the Ministry of National Education (MEN) to address gender-based violence (GBV) against adolescents and children; and (4) Maintain interventions in the social sector for control of the HIV epidemic clearly making this the sole and uniquely strong organization that can move this role forward, attain sustainability, and transfer back this role to the government.

Summary of the Award

Recipient: Ministry of Women, Families and Children (MFFE).

Purpose of the Award: The purpose of this award is to continue to build a sustainable national response to address the needs of OVC and their families and others highly affected by HIV/AIDS. This NOFO will support services to mitigate these effects in order to improve health and well-being outcomes of adults and children. In addition, the MFFE will work closely with the MEN to address adolescent girls' vulnerability by providing school-based HIV and prevention gender and education interventions.

Amount of Award: The approximate year 1 funding amount will be $3,000,000 in Federal Fiscal Year (FFY) 2022 funds, subject to the availability of funds. Funding award amounts for years 2–5 will be set at continuation.

Authority: This program is authorized under Public Law 108–25 (the United States Leadership Against HIV AIDS, Tuberculosis and Malaria Act of 2003).

Period of Performance: September 30, 2022 through September 29, 2027.

Dated: March 2, 2022.

Terrance Perry,

Chief Grants Management Officer, Centers for Disease Control and Prevention.

[FR Doc. 2022–04817 Filed 3–7–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Notice of Award of a Single-Source Cooperative Agreement To Fund Servicos Provinciais de Saúde de Zambezia (SPS Zambezia), Mozambique

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Disease Control and Prevention (CDC), located within the Department of Health and Human Services (HHS), announces the award of approximately $2,000,000 for Year 1 of funding to the Servicos Provinciais de Saúde de Zambezia (SPS Zambezia), Mozambique. The award will strengthen the institutional capacity of SPS Zambezia to plan, coordinate, and supervise HIV-related activities to contribute to accelerated progress towards the 95–95–95 goals (95% of HIV-positive individuals knowing their status, 95% of those receiving ART [Antiretroviral therapy], and 95% of those achieving viral suppression) and ensure sustainable control of the epidemic in Mozambique. Funding amounts for years 2–5 will be set at continuation.

DATES: The period for this award will be September 30, 2022 through September 29, 2027.

FOR FURTHER INFORMATION CONTACT: Meghan Duffy, Center for Global Health, Centers for Disease Control and Prevention, U.S. Embassy Maputo, Avenida Marginal nr 5467, Sommerschield, Distrito Municipal de KaMpfumo Caixa Postal 783 CEP 0101–11 Maputo, Moçambique, Telephone: 800–232–6348, Email: *wwp2@cdc.gov.*

SUPPLEMENTARY INFORMATION: The single-source award will focus on building institutional capacity of the SPS in Zambezia for program development and planning and strengthening program implementation and oversight of activities related to HIV prevention, care, support, and treatment services funded by PEPFAR in Mozambique.

SPS Zambezia is in a unique position to conduct this work, as it leads all health services within the province of Zambezia. In Mozambique, the governmental public health infrastructure is organized into the central or national entity of the Mozambique Ministry of Health/Ministério da Saúde (MOH/MISAU), the Provincial Health Directorates (DPSs) that implement activities at the primary healthcare level, and the Provincial Health Service (SPS) that lead all health services within the province of Zambezia. The SPSs in Mozambique are government organizations established by law and mandated to plan, coordinate, and supervise all health-related activities at the tertiary and secondary level, including HIV/AIDS activities, within their provincial jurisdiction.

Summary of the Award

Recipient: SPS Zambezia, Mozambique.

Purpose of the Award: The purpose of this award is to strengthen the institutional capacity of SPS Zambezia to plan, coordinate, and supervise HIV-related activities to contribute to accelerated progress towards the 95–95–95 goals and ensure sustainable control of the epidemic in Mozambique.

Amount of Award: The approximate year 1 funding amount will be $2,000,000 in Federal Fiscal Year (FFY) 2022 funds, subject to the availability of funds. Funding amounts for years 2–5 will be set at continuation.

Authority: This program is authorized under Public Law 108–25 (the United States Leadership Against HIV AIDS, Tuberculosis and Malaria Act of 2003).

Period of Performance: September 30, 2022 through September 29, 2027.

Dated: March 2, 2022.

Terrance Perry,

Chief Grants Management Officer, Centers for Disease Control and Prevention.

[FR Doc. 2022–04783 Filed 3–7–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Notice of Award of a Single-Source Cooperative Agreement To Fund Institut Pasteur de Cote d'Ivoire (IPCI)

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Disease Control and Prevention (CDC), located within the Department of Health and Human Services (HHS), announces the award of approximately $1,000,000, for Year 1 of funding to the IPCI to sustain decentralization of HIV-associated microbiology at regional hospitals and to expand interventions to additional

regional hospitals. The award will improve support to and the coordination of the TB and OIs laboratory network for quality assured diagnosis of TB/DR–TB, including smear microscopy (LED), Lipoarabinomannan Assay (LF–LAM) for the diagnosis and screening of active tuberculosis in people with HIV, solid and liquid culture, and molecular WHO-recommended diagnostic tests (LIPA, Xpert Ultra). Funding amounts for years 2–5 will be set at continuation.

DATES: The period for this award will be September 30, 2022 through September 29, 2027.

FOR FURTHER INFORMATION CONTACT: Titania Techeira, Center for Global Health, Centers for Disease Control and Prevention, CDC Côte d'Ivoire, U.S. Embassy B.P. 730 Abidjan Cidex 03, Telephone: 800–232–6348, Email: *iux2@cdc.gov.*

SUPPLEMENTARY INFORMATION: The single-source award will strengthen IPCI as the National Reference Laboratory for TB and microbiology tests. This will enable IPCI to better and further sustain the efforts in 27 Anti-Tuberculosis Centers (CATs) and in 16 regional reference laboratories previously supported for decentralized microbiology diagnosis.

IPCI is in a unique position to conduct this work as it is the designated laboratory institution in charge of integrated Disease Surveillance and Response (IDSR) in Cote d'Ivoire by the Ministry of Health (MOH) and Ministry of Scientific Research. IPCI is responsible for the implementation, monitoring, and evaluation of population-based TB, malaria and epidemic disease surveillance, including HIV opportunistic infections, as well as prevention and care policies and interventions.

Summary of the Award

Recipient: IPCI.

Purpose of the Award: The purpose of this award is to sustain decentralization of HIV-associated microbiology at regional hospitals and to expand interventions to additional regional hospitals. It will improve support to and the coordination of the TB and OIs laboratory network for quality assured diagnosis of TB/DR–TB, including smear microscopy (LED), Lipoarabinomannan Assay (LF–LAM) for the diagnosis and screening of active tuberculosis in people with HIV, solid and liquid culture, and molecular WHO-recommended diagnostic tests (LIPA, Xpert Ultra).

Amount of Award: The approximate year 1 funding amount will be $1,000,000 in Federal Fiscal Year (FYY) 2022 funds, subject to the availability of funds. Funding amounts for years 2–5 will be set at continuation.

Authority: Public Law 108–25 (the United States Leadership Against HIV AIDS, Tuberculosis and Malaria Act of 2003).

Period of Performance: September 30, 2022 through September 29, 2027.

Dated: March 2, 2022.

Terrance Perry,

Chief Grants Management Officer, Centers for Disease Control and Prevention.

[FR Doc. 2022–04790 Filed 3–7–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Notice of Award of a Single-Source Cooperative Agreement To Fund Machakos County Government, Makueni County Government, Kitui County Government, and Nairobi County Government (Represented by Nairobi Metropolitan Services), Kenya

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Disease Control and Prevention (CDC), located within the Department of Health and Human Services (HHS) announces the award of approximately $1,400,000 for Year 1 of, and an average 1 year award amount of $350,000, funding to the Machakos County Government, Makueni County Government, Kitui County Government, and Nairobi County Government (represented by Nairobi Metropolitan Services). The awards will advance current efforts to attain ownership, leadership, and implementation capacity for HIV services by the Nairobi, Machakos, Makueni and Kitui County governments, and to achieve and sustain HIV epidemic control through sustainable high-quality comprehensive HIV prevention and treatment services. Funding amounts for years 2–5 will be set at continuation.

DATES: The period for this award will be September 30, 2022 through September 29, 2027.

FOR FURTHER INFORMATION CONTACT: Dr. Lucy Nganga, Center for Global Health, Centers for Disease Control and Prevention, KEMRI Campus, Mbagathi Road—off Mbagathi Way, P.O. Box 606, Village Market, 00621, Nairobi, Kenya. Telephone: 800–232–6348, Email: *hon5@cdc.gov.*

SUPPLEMENTARY INFORMATION: The single-source awards will support Nairobi, Machakos, Makueni and Kitui County Governments to achieve two goals: (1) Implementation and expansion of comprehensive HIV services with the goal of achieving and maintaining epidemic control, and (2) Strengthening the capacity of Nairobi, Machakos, Makueni and Kitui county governments' Department of Health Services to progressively manage, sustain and transition to ownership of HIV service delivery.

The 2010 Kenyan constitution (Chapter 11, article 174–176;189) *https://www.klrc.go.ke/index.php/constitution-of-kenya;* the Fourth Schedule, Part 2 *https://www.klrc.go.ke/index.php/constitution-of-kenya/167-schedules-schedules/fourth-schedule-distribution-of-functions-between-national-and-the-county-governments* and the Kenya Health Act (Act No. 21 2017) *http://kenyalaw.org:8181/exist/kenyalex/actview.xql?actid=No.%2021%20of%202017* prescribed roles for the new county government, whereby each county is responsible for provision of health care services to its residents. Nairobi, Machakos, Makueni and Kitui County Governments' Departments of Health Services have the sole mandate to manage and implement Nairobi, Machakos, Makueni and Kitui Counties' public health response to HIV and implementing partners must work through these entities. CDC's support to Nairobi, Machakos, Makueni and Kitui County will directly increase the capacity of Department of Health Services to support long-term sustainable HIV service delivery response in Kenya.

Summary of the Award

Recipient: Machakos County Government, Makueni County Government, Kitui County Government, and Nairobi County Government (represented by Nairobi Metropolitan Services).

Purpose of the Award: The purpose of this award is to advance current efforts to attain ownership, leadership, and implementation capacity for HIV services by the Nairobi, Machakos, Makueni and Kitui County governments, and to achieve and sustain HIV epidemic control through sustainable high-quality comprehensive HIV prevention and treatment services. This will be achieved through health system strengthening and increased coverage of high quality, client-centered comprehensive HIV prevention and treatment services, resulting in a

decrease in HIV incidence and reduction in HIV associated morbidity and mortality.

Amount of Award: The approximate year 1 funding amount in Federal Fiscal Year (FFY) 2022 funds will be, subject to the availability of funds:

- Kitui County: Anticipated Year 1 Funding Amount is $300,000.
- Makueni County: Anticipated Year 1 Funding Amount is $300,000.
- Machakos County: Anticipated Year 1 Funding Amount is $300,000.
- Nairobi County: Anticipated Year 1 Funding Amount is $500,000.

Funding amounts for years 2–5 will be set at continuation.

Authority: Public Law 108–25 (the United States Leadership Against HIV AIDS, Tuberculosis and Malaria Act of 2003).

Period of Performance: September 30, 2022 through September 29, 2027.

Dated: March 2, 2022.

Terrance Perry,

Chief Grants Management Officer, Centers for Disease Control and Prevention.

[FR Doc. 2022–04824 Filed 3–7–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Notice of Award of a Single-Source Cooperative Agreement To Fund Burkina Faso Ministry of Health

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Disease Control and Prevention (CDC), located within the Department of Health and Human Services (HHS), announces the award of approximately $450,000 for Year 1 of funding to the Burkina Faso Ministry of Health. to build laboratory and SI capacity to improve the provision of HIV testing, treatment, retention in line with HIV epidemic control and 95–95–95 targets (95% of HIV-positive individuals knowing their status, 95% of those receiving ART [Antiretroviral therapy], and 95% of those achieving viral suppression). Funding amounts for years 2–5 will be set at continuation.

DATES: The period for this award will be September 30, 2022, through September 29, 2027.

FOR FURTHER INFORMATION CONTACT: Trong Ao, Center for Global Health, Centers for Disease Control and Prevention, CDC Ghana Office, U.S. Embassy, 24 Fourth Circular Road, Cantonments, Accra Ghana, Telephone: 800–232–6348, Email: *tfa8@cdc.gov.*

SUPPLEMENTARY INFORMATION: The single-source award will support the Burkina Faso Ministry of Health to implement HIV strategic information and laboratory strengthening activities in Burkina Faso. The National HIV/AIDS control program is one of the specialized programs within the Ministry of Health. The Burkina Faso Ministry of Health is in a unique position to conduct this work, as it functions under the Directorate of Disease Prevention and control of the Ministry and is the mandated institution to provide HIV treatment clinical services and guidelines in Burkina Faso.

Summary of the Award

Recipient: Burkina Faso Ministry of Health.

Purpose of the Award: The purpose of this award is to build laboratory and SI capacity to improve the provision of HIV testing, treatment, retention in line with HIV epidemic control and 95–95–95 targets. This award strives to build and strengthen laboratories that are equipped with the appropriate diagnostic technologies, trained and skilled staff, and systems that can provide efficient services. It will also strengthen SI systems, data quality assurance, and staff capacity responsible for managing facility-based, survey and surveillance data operating at national and subnational levels.

Amount of Award: The approximate year 1 funding amount will be $450,000 in Federal Fiscal Year (FYY) 2022 funds, subject to the availability of funds. Funding amounts for years 2–5 will be set at continuation.

Authority: This program is authorized under Public Law 108–25 (the United States Leadership Against HIV AIDS, Tuberculosis and Malaria Act of 2003).

Period of Performance: September 30, 2022, through September 29, 2027.

Dated: March 2, 2022.

Terrance Perry,

Chief Grants Management Officer, Centers for Disease Control and Prevention.

[FR Doc. 2022–04814 Filed 3–7–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Notice of Award of a Single-Source Cooperative Agreement To Fund the Southern Provincial Health Office (SPHO), Lusaka Provincial Health Office (LPHO), Western Provincial Health Office (WPHO), and Eastern Provincial Health Office (EPHO) in Zambia

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Disease Control and Prevention (CDC), located within the Department of Health and Human Services (HHS), announces the award of approximately $57,500,000 for total year 1 of funding, and an average 1-year award amount of $14,375,000, to the Southern Provincial Health Office (SPHO), Lusaka Provincial Health Office (LPHO), Western Provincial Health Office (WPHO), and Eastern Provincial Health Office (EPHO)in Zambia. The awards will provide the Provincial Health Offices (PHOs) with CDC technical assistance and financial support to maintain and sustain the provinces' overall leadership and oversight for implementing high-impact HIV combination prevention, treatment and support services, including clinical, surveillance, and laboratory services as well as to identify and mitigate emerging disease threats for people living with HIV (PLHIV). Funding amounts for years 2–5 will be set at continuation.

DATES: The period for this award will be September 30, 2022 through September 29, 2027.

FOR FURTHER INFORMATION CONTACT: Carolina Granados, Center for Global Health, Centers for Disease Control and Prevention, 351 Independence Ave., Lusaka, Zambia, Telephone: 800–232–6348, Email: *hsy7@cdc.gov.*

SUPPLEMENTARY INFORMATION: The single-source award will support the Zambian Ministry of Health to achieve and sustain gains made in HIV epidemic control in four Zambian Provinces, SPHO, LPHO, WPHO, EPHO. The PHOs will provide programmatic oversight, coordination, and direct service delivery in the provision of comprehensive HIV prevention, treatment, and support services, while strengthening health systems for sustainability. Broad areas of support include, but are not limited to:

• *HIV prevention services:* Voluntary medical male circumcision; Cervical cancer prevention and treatment; Gender based violence Prevention and response; Condom programming; Pre-exposure prophylaxis; Elimination of mother-to-child transmission; Support for Key and vulnerable populations and Orphans and vulnerable children;

• HIV treatment and support services for all age groups across the care continuum from case finding to viral load suppression. Support will include: Prevention and management of opportunistic infections and advanced HIV disease, as well as non-communicable diseases (including support for mental health);

• Health system strengthening including support to financial and administrative management systems, internal controls, human resources for health, health information systems, supply chain/commodities management, laboratory services, and continuous quality improvement.

The Provincial Health Offices are the single entities eligible for this award since they are the sole government institutions with the mandate to support health service delivery through capacity building, systems strengthening, and oversight for HIV program implementation for the population of Zambia per the National Health Policy and Zambian National Health Strategic Plan.

Summary of the Award

Recipient: Southern Provincial Health Office; Lusaka Provincial Health Office; Western Provincial Health Office; and Eastern Provincial Health Office in Zambia.

Purpose of the Award: The purpose of this award is to provide PHOs with CDC technical assistance and financial support to maintain and sustain the province's overall leadership and oversight for implementing high-impact HIV combination prevention, treatment, and support services, including clinical, surveillance, and laboratory services as well as to identify and mitigate emerging disease threats for PLHIV. Specifically, it will serve to strengthen capacity development activities, while providing optimal health systems strengthening in support of continued and sustainable HIV epidemic control in Zambia.

Amount of Award: The approximate year 1 funding amount in Federal Fiscal Year (FFY) 2022 funds will be, subject to the availability of funds:

• Southern Provincial Health Office (SPHO): Anticipated Year 1 Funding Amount is $14,500,000
• Lusaka Provincial Health Office (LPHO): Anticipated Year 1 Funding Amount is $19,000,000
• Western Provincial Health Office (WPHO): Anticipated Year 1 Funding Amount is $12,000,000
• Eastern Provincial Health Office (EPHO): Anticipated Year 1 Funding Amount is $12,000,000;

Funding amounts for years 2–5 will be set at continuation.

*Authority:*This program is authorized under Public Law 108–25 (the United States Leadership Against HIV AIDS, Tuberculosis and Malaria Act of 2003).

Period of Performance: September 30, 2022, through September 29, 2027.

Dated: March 2, 2022.

Terrance Perry,

Chief Grants Management Officer, Centers for Disease Control and Prevention.

[FR Doc. 2022–04827 Filed 3–7–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Notice of Award of a Single-Source Cooperative Agreement To Fund the National AIDS Control Committee (NACC), Cameroon

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Disease Control and Prevention (CDC), located within the Department of Health and Human Services (HHS), announces the award of approximately $3,000,000 for Year 1 of funding to the National AIDS Control Committee (NACC), Cameroon. The award will strengthen national policies, build capacity, and define high-level high-impact interventions and key strategies for HIV/TB prevention, treatment and care in Cameroon. Funding amounts for years 2–5 will be set at continuation.

DATES: The period for this award will be September 30, 2022, through September 29, 2027.

FOR FURTHER INFORMATION CONTACT: Lisa Esapa, Center for Global Health, Centers for Disease Control and Prevention, Standard Chartered Bank Building, Hippodrome, Telephone: 800–232–6348, Email: *hww5@cdc.gov.*

SUPPLEMENTARY INFORMATION: The single-source award will implement HIV prevention, care and treatment in Cameroon through activities, including: Developing and implementing policies and strategies to optimize case finding, HIV treatment and retention, viral load coverage and suppression, and building workforce capacity to improve uptake and quality of these HIV/TB services; and enhancing the implementation of evidence-based prevention interventions for KPs (key populations) /PPs (priority populations) /GP (general populations. Implementation of this award will enhance scale up of services and improve quality of diagnostics, treatment, management, and clinical outcomes for HIV and TB infections in Cameroon. This award will build upon CDC's initial successful partnerships to address these challenges and gaps and complement Global Fund efforts. NACC is in a unique position to conduct this work, as it is the organization mandated by the Government of Cameroon to coordinate HIV/AIDS activities in Cameroon. NACC is essential to building effective national-level coordination in HIV programs, as mandated in the 2000–2005 and 2006–2010 National HIV/AIDS Strategic Plans. The mission of NACC is to coordinate a comprehensive and effective multi-sector and decentralized national response to HIV/AIDS, including coordination and support to the health sector response.

Summary of the Award

Recipient: National AIDS Control Committee (NACC), Cameroon.

Purpose of the Award: The purpose of this award is to strengthen national policies and define high-level high-impact interventions and key strategies for HIV/TB prevention, treatment and care; improve knowledge and prevent high risk behaviors associated with STIs/HIV; monitor and ensure the elimination of user fees for all HIV/TB services; develop national quality improvement policy and setup CQI management system; provide technical capacity to generate quality data; reduce HIV/TB related morbidity and mortality; and provide capacity to coordinate and monitor the national HIV response in Cameroon.

Amount of Award: The approximate year 1 funding amount will be $ 3,000,000 in Federal Fiscal Year (FYY) 2022 funds, subject to the availability of funds. Funding amounts years 2–5 will be set at continuation.

Authority: This program is authorized under Public Law 108–25 (the United States Leadership Against HIV AIDS, Tuberculosis and Malaria Act of 2003).

Period of Performance: September 30, 2022, through September 29, 2027.

Dated: March 2, 2022.

Terrance Perry,

Chief Grants Management Officer, Centers for Disease Control and Prevention.

[FR Doc. 2022–04788 Filed 3–7–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of an Exclusive Patent License: NCGC00413972 and Its Related Analogs Consisting of an Imidazo-Pyrazine Scaffold Core for the Treatment or Prevention of Cancers Expressing the Mannose Receptor CD206, Including Both Solid Tumors and Hematological Malignancies

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The National Cancer Institute, an institute of the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of an Exclusive Patent License to practice the inventions embodied in the Patent Applications listed in the **SUPPLEMENTARY INFORMATION** section of this notice to Macala Bio, Inc. located in 1000 NW Wall Street, Suite 220, Bend, OR 97703.

DATES: Only written comments and/or applications for a license which are received by the National Cancer Institute's Technology Transfer Center on or before March 23, 2022 will be considered.

ADDRESSES: Requests for copies of the patent application, inquiries, and comments relating to the contemplated an Exclusive Patent License should be directed to: Eric Cheng, Ph.D., Licensing and Patenting Manager at (240)-276–5530 or *eric.cheng2@nih.gov.*

SUPPLEMENTARY INFORMATION:

Intellectual Property

United States Provisional Patent Application No. 62/950,488, filed 19 December 2019 and entitled ''CD206 Modulators Their Use And Methods For Preparation'' [HHS Reference No. E–105–2019/0–US–01];

PCT Patent Application PCT/US2020/065238, filed 16 December 2020 and entitled ''CD206 Modulators Their Use And Methods For Preparation'' [HHS Reference No. E–105–2019–0–PCT–02].

The patent rights in these inventions have been assigned and/or exclusively licensed to the government of the United States of America.

The prospective exclusive license territory may be worldwide and the field of use may be limited to: NCGC00413972 and its related analogs consisting of an imidazo-pyrazine scaffold core for the treatment or prevention of cancers expressing the mannose receptor CD206, including both solid tumors and hematological malignancies.

This technology discloses immunotherapy drugs, and to compounds that modulate CD206 as well as their use and methods for preparation.

This notice is made in accordance with 35 U.S.C. 209 and 37 CFR part 404. The prospective exclusive license will be royalty bearing, and the prospective exclusive license may be granted unless within fifteen (15) days from the date of this published notice, the National Cancer Institute receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR part 404.

In response to this Notice, the public may file comments or objections. Comments and objections, other than those in the form of a license application, will not be treated confidentially, and may be made publicly available.

License applications submitted in response to this Notice will be presumed to contain business confidential information and any release of information in these license applications will be made only as required and upon a request under the Freedom of Information Act, 5 U.S.C. 552.

Dated: March 2, 2022.

Richard U. Rodriguez,

Associate Director, Technology Transfer Center, National Cancer Institute.

[FR Doc. 2022–04829 Filed 3–7–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; 30-Day Comment Request Generic Clearance for National Cancer Institute (NCI) NCI Resources, Software and Data Sharing Forms (National Cancer Institute)

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

DATES: Comments regarding this information collection are best assured of having their full effect if received within 30-days of the date of this publication.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the data collection plans and instruments, submit comments in writing, or request more information on the proposed project, contact: Diane Kreinbrink, Office of Management Policy and Compliance, National Cancer Institute, 9609 Medical Center Drive, Rockville, Maryland, 208 or call non-toll-free number (240) 276–7283 or email your request, including your address to: *diane.kreinbrink@nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

SUPPLEMENTARY INFORMATION: This proposed information collection was previously published in the **Federal Register** on December 20, 2021 (Vol. 86 FR 71901) and allowed 60 days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Cancer Institute (NCI), National Institutes of Health (NIH), may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid Office of Management and Budget (OMB) control number.

In compliance with Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, NIH has submitted to OMB a request for review and approval of the information collection listed below.

Proposed Collection: Generic Clearance for NCI Resources, Software and Data Sharing Forms, 0925—NEW, Expiration Date xx/xx/xxxx, NCI, NIH.

Need and Use of Information Collection: In preparation for dissemination and sharing of data sets, forms requesting or applying for access, upload, share, and store data will be needed. The purpose of data sharing

allows data generated from one research study to be used to answer questions beyond the original study. It reinforces open scientific inquiry, encourages diversity of analysis, supports studies on data collection methods and measurement, facilitates the education of new researchers, and enables the exploration of topics not envisioned by the initial investigators. Biomedical researchers and data scientists can use the NCI cloud resources, web interface, and computational workspaces to query, submit data, analyze, and visualize data. The forms would be used to register a scientist's research data, apply for data storage, and submit a request to access and use the data. In addition to these forms, forms related to metadata information (*i.e.,* related to the collection of the research data; how the data was collected) would be collected for some research OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden are 5,775 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Type of respondents	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total annual burden hours
Request Data Access/Use					
Data Access Request-Submitter	Individuals	1,500	1	45/60	1,125
Institutional Certification	Individuals	1,500	1	30/60	750
Data Submission/Storage					
Data Submission/Storage Request	Individuals	1,500	1	30/60	750
Institutional Certification	Individuals	1,500	1	30/60	750
Request Access to/Use NCI Resources/Software					
Data Resources	Individuals	1,500	1	30/60	750
Project Renewal or Project Close-Out					
Project Renewal or Project Close-out form	Individuals	1,500	2	15/60	750
Institutional Certification	Individuals	1,500	2	18/60	900
Totals		10,500	13,500		5,775

Dated: March 3, 2022.

Diane Kreinbrink,

Project Clearance Liaison, National Cancer Institute, National Institutes of Health.

[FR Doc. 2022–04881 Filed 3–7–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2010–0164]

National Boating Safety Advisory Committee; March 2022 Meeting

AGENCY: U.S. Coast Guard, Department of Homeland Security.

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The National Boating Safety Advisory Committee (Committee) and its Subcommittees will meet in Annapolis, MD to discuss matters relating to recreational boating safety. The meeting will be open to the public via a virtual platform. There is also limited in-person access.

DATES:

Meetings: The National Boating Safety Advisory Committee and its Subcommittees will meet on Monday, March 28, 2022 from 1:00 p.m. until 4:30 p.m., (Eastern Daylight Time), Tuesday, March 29, 2022 from 8 a.m. until 4:30 p.m. and on Wednesday, March 30, 2022 from 8 a.m. until 12 p.m. Please note these meetings may adjourn early if the Committee has completed its business.

Comments and supporting documentation: To ensure your comments are received by Committee members before the meeting, submit your written comments no later than March 21, 2022.

ADDRESSES: The meeting will be held at the American Boat and Yacht Council at 613 Third Street, Suite10, Annapolis, MD 21403, *www.abycinc.org.*

Pre-registration information: Pre-registration is required for in-person access to the meeting, and for any attending via teleconference. In-person attendance to the meeting will be limited to the first 49 registrants, with priority for members of the Committee and Coast Guard support staff. If you are not a member of the Committee and do not represent the Coast Guard, you must request in-person attendance by contacting the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice. You will receive a response noting if you are able to attend in-person or if the in-person roster is full. Additionally, the NBSAC mailing list will receive a notification when the in-person attendance roster is full.

Attendees at the meeting will be required to follow COVID–19 safety guidelines promulgated by Centers for Disease Control and Prevention (CDC), which may include the need to wear masks and by completing *Certification of Vaccination Form OMB Control No. 3206–0277,* or providing proof of vaccination. This form can be accessed at Certification VaccinationPRAv7.pdf (menlosecurity.com). You may be asked to show this form when entering the facility. Please maintain this form during your visit. Masks will be provided for attendees. CDC guidance on COVID protocols can be found here: *https://www.cdc.gov/coronavirus/2019-ncov/communication/guidance.html.*

Teleconference lines and live virtual document sharing will be available for the full meeting of the Committee.

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact the individual listed in

the **FOR FURTHER INFORMATION CONTACT** of this notice.

Instructions: You are free to submit comments at any time, including orally at the meeting, but if you want Committee members to review your comments before the meeting, please submit your comments no later than March 21, 2022. We are particularly interested in comments on the issues in the ''Agenda'' section below. We encourage you to submit comments through the Federal eRulemaking Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* call or email the individual in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. You must include the docket number [USCG–2010–0164]. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided. You may wish to view the Privacy and Security Notice available on the homepage of *https://www.regulations.gov,* and DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020). If you encounter technical difficulties with comment submission, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Docket Search: Documents mentioned in this notice as being available in the docket, and all public comments, will be in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign-up for email alerts, you will be notified when comments are posted.

FOR FURTHER INFORMATION CONTACT: Mr. Jeff Decker, Alternate Designated Federal Officer of the National Boating Safety Advisory Committee, 2703 Martin Luther King Jr. Ave SE, Stop 7509, Washington, DC 20593–7509, telephone 202–372–1507 or *NBSAC@uscg.mil.*

SUPPLEMENTARY INFORMATION: Notice of this meeting is given pursuant to the *Federal Advisory Committee Act,* (5, U.S.C, Appendix). The National Boating Safety Advisory Committee was established on December 4, 2018, by § 601 of the *Frank LoBiondo Coast Guard Authorization Act of 2018* (Pub. L. 115–282, 132 Stat. 4192). That authority is codified in 46 U.S.C. 15105. The Committee operates under the provisions of the *Federal Advisory Committee Act* (5 U.S.C. Appendix) in addition to the administrative provisions for the National Maritime Transportation Advisory Committees in 46 U.S.C. 15109. The National Boating Safety Advisory Committee provides advice and recommendations to the Department of Homeland Security on matters relating to recreational vessels and associated equipment and on other safety matters related to recreational vessels.

Agenda

Day 1

The agenda for the National Boating Safety Advisory Committee meeting is as follows:

Monday, March 28, 2022

(1) Call to Order.
(2) Opening remarks.
(3) Receipt and discussion of the following reports from the Office of Auxiliary and Boating Safety:
(a) Division Chief Report of new State Guide, Office Projects, Use of Nonmotorized and Motorized vessels, Waterway Management Guide and website enhancements.
(b) The difference between Operator of Uninspected Passenger Vessel (OUPV) and Restricted Operator of Uninspected Passenger Vessel credentials and casualty statistics involving credentialed mariners engaged in providing recreational boating education.
(c) Boating Incident Reporting Policy.
(d) State Reporting Statistics.
(e) eFoils and JetBoards.
(f) Engine Cut-off Switch Update.
(g) Rental Boat Incidents.
(h) Use of motorized and non-motorized vessels.
(4) Public comment period.
(5) Meeting Recess.

Day 2

Tuesday, March 29, 2022

(1) Call to Order.
(2) USCG Office of Boating Safety, Product Assurance Branch (BSX–23).
(3) Breakout sessions for Strategic Planning and Prevention through People Subcommittees.
(4) Report from Strategic Planning Subcommittee to the full Committee.
(5) Report from Prevention through People Subcommittee to the full Committee.
(6) Public comment period.
(7) Meeting Recess.

Day 3

Wednesday, March 30, 2022

The full Committee will resume meeting.
(1) Call to Order.
(2) Discussion of Subcommittee recommendations and Committee Actions.
(3) Full Committee Open Discussion of Boating Safety Related Topics.
(4) Public Comment period.
(5) Voting on any recommendations to be made to the U.S. Coast Guard.
(6) Administration.
(7) Closing Remarks.
(8) Adjournment of meeting.

A copy of all meeting documentation will be available at *https://homeport.uscg.mil/Lists/Content/DispForm.aspx?ID=75937&Source=/Lists/Content/DispForm.aspx?ID=75937* by March 21, 2022. Alternatively, you may contact Mr. Jeff Decker as noted in the **FOR FURTHER INFORMATION** section above.

During the March 28 and March 29, 2022 meetings, a public comment period will be held from approximately 3:45 p.m.–4:00 p.m. Public comments will be limited to three minutes per speaker. Please note that the public comment periods will end following the last call for comments.

Please contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section, to register as a speaker.

Dated: March 2, 2022.

Wayne R. Arguin, Jr.,

Captain, U.S. Coast Guard, Director of Inspections and Compliance.

[FR Doc. 2022–04854 Filed 3–7–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2022–0201]

Area Maritime Security Advisory Committee (AMSC) for Prince William Sound, AK

AGENCY: Coast Guard, DHS.

ACTION: Solicitation for membership.

SUMMARY: This notice requests individuals interested in serving on the Prince William Sound Area Maritime Security Advisory Committee (AMSC) submit their applications for membership to the Captain of the Port Prince William Sound.

DATES: Requests for membership should reach the U.S. Coast Guard Captain of the Port Prince William Sound by April 15th, 2022.

ADDRESSES: Applications for membership should be submitted to the Captain of the Port Prince William Sound at the following address: *Jason.A.Smilie@uscg.mil.*

FOR FURTHER INFORMATION CONTACT: For questions about submitting an application or about the AMSC in

general, contact Dr. Jason Smilie, Prince William Sound Port Security Specialist at (907) 835–7266 or *Jason.A.Smilie@uscg.mil.*

SUPPLEMENTARY INFORMATION:

Authority

Section 102 of the Maritime Transportation Security Act (MTSA) of 2002 (Pub. L. 107–295) added section 70112 to Title 46 of the U.S. Code, and authorized the Secretary of the Department in which the Coast Guard is operating to establish Area Maritime Security Advisory Committees (AMSCs) for any port area of the United States. (See 33 U.S.C. 1226; 46 U.S.C. 70112; 33 CFR 1.05–1, 6.01; Department of Homeland Security Delegation No. 0170.1). The MTSA includes a provision exempting these AMSCs from the Federal Advisory Committee Act (FACA), Public Law 92–436, 86 Stat. 470 (5 U.S.C. App.2).

The AMSCs assists the Captain of the Port Prince William Sound (COTP) in the development, review, update, and exercising of the Area Maritime Security Plan (AMS Plan) for their area of responsibility. Such matters may include, but are not limited to:

- Identifying critical port infrastructure and operations;
- Identifying risks (threats, vulnerabilities, and consequences);
- Determining mitigation strategies and implementation methods;
- Developing strategies to facilitate the recovery of the MTS after a Transportation Security Incident;
- Developing and describing the process to continually evaluate overall port security by considering consequences and vulnerabilities, how they may change over time, and what additional mitigation strategies can be applied; and
- Providing advice to, and assisting the Captain of the Port in developing and maintaining the AMS Plan.

AMSC Composition

The composition of an AMSC is prescribed under 33 CFR 103.305. Pursuant to that regulation, members may be selected from the Federal, Territorial, or Tribal government; the State government and political subdivisions of the State; local public safety, crisis management, and emergency response agencies; law enforcement and security organizations; maritime industry, including labor; other port stakeholders having a special competence in maritime security; and port stakeholders affected by security practices and policies. Members of the AMSC should have at least five years of experience related to maritime or port security operations.

AMSC Membership

The Prince William Sound AMSC is seeking to fill 7 positions with this solicitation.

Applicants may be required to pass an appropriate security background check prior to appointment to the committee. Members' terms of office will be for five years; however, a member is eligible to serve additional terms of office. Members will not receive any salary or other compensation for their service on an AMSC. In support of the USCG policy on gender and ethnic diversity, we encourage qualified women and members of minority groups to apply.

Request for Applications

Those seeking membership are requested to submit resumes highlighting their requisite experiences in the maritime and security industries to the address indicated in the **ADDRESSES** section of this notice.

The Department of Homeland Security does not discriminate in selection of Committee members on the basis of race, color, religion, sex, national origin, political affiliation, sexual orientation, gender identity, marital status, disability and genetic information, age, membership in an employee organization, or other non-merit factor. The Department of Homeland Security strives to achieve a widely diverse candidate pool for all of its recruitment actions.

Dated: March 1, 2022.

P.A. Drayer,

Commander, United States Coast Guard, Captain of the Port/Federal Maritime Security Coordinator Valdez.

[FR Doc. 2022–04847 Filed 3–7–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2022–0002; Internal Agency Docket No. FEMA–B–2218]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: Comments are to be submitted on or before June 6, 2022.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location *https://hazards.fema.gov/femaportal/prelimdownload* and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–2218, to Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be

construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *https://www.floodsrp.org/pdfs/srp_overview.pdf.*

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location *https://hazards.fema.gov/femaportal/prelimdownload* and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

Community	Community map repository address
Chippewa County, Wisconsin and Incorporated Areas Project: 11–05–2527S Preliminary Date: September 29, 2020	
City of Chippewa Falls	City Hall, Inspection Zoning Office, 30 West Central Street, Chippewa Falls, WI 54729.
Unincorporated Areas of Chippewa County	Chippewa County Courthouse, 711 North Bridge Street, Chippewa Falls, WI 54729.

[FR Doc. 2022–04903 Filed 3–7–22; 8:45 am]
BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2022–0002]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: New or modified Base (1-percent annual chance) Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, and/or regulatory floodways (hereinafter referred to as flood hazard determinations) as shown on the indicated Letter of Map Revision (LOMR) for each of the communities listed in the table below are finalized. Each LOMR revises the Flood Insurance Rate Maps (FIRMs), and in some cases the Flood Insurance Study (FIS) reports, currently in effect for the listed communities.

DATES: Each LOMR was finalized as in the table below.

ADDRESSES: Each LOMR is available for inspection at both the respective Community Map Repository address listed in the table below and online through the FEMA Map Service Center at *https://msc.fema.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final flood hazard determinations as shown in the LOMRs for each community listed in the table below. Notice of these modified flood hazard determinations has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Insurance and Mitigation has resolved any appeals resulting from this notification.

The modified flood hazard determinations are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

The currently effective community number is shown and must be used for all new policies and renewals.

The new or modified flood hazard information is the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to remain qualified for participation in the National Flood Insurance Program (NFIP).

This new or modified flood hazard information, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities.

This new or modified flood hazard determinations are used to meet the

floodplain management requirements of the NFIP. The changes in flood hazard determinations are in accordance with 44 CFR 65.4.

Interested lessees and owners of real property are encouraged to review the final flood hazard information available at the address cited below for each community or online through the FEMA Map Service Center at *https://msc.fema.gov.*

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Arkansas: Benton (FEMA Docket No.: B–2182).	City of Lowell (21–06–1057P).	The Honorable Chris Moore, Mayor, City of Lowell, 216 North Lincoln Street, Lowell, AR 72745.	City Hall, 216 North Lincoln Street, Lowell, AR 72745.	Feb. 14, 2022	050342
Colorado:					
Boulder (FEMA Docket No.: B–2182).	City of Boulder (21–08–0996X).	The Honorable Sam Weaver, Mayor, City of Boulder, 1777 Broadway Street, Boulder, CO 80302.	Municipal Building Plaza, 1777 Broadway Street, Boulder, CO 80302.	Feb. 18, 2022	080024
Larimer (FEMA Docket No.: B–2182).	City of Fort Collins (21–08–0277P).	The Honorable Jeni Arndt, Mayor, City of Fort Collins, P.O. Box 580, Fort Collins, CO 80522.	Stormwater Utilities Department, 700 Wood Street, Fort Collins, CO 80521.	Feb. 15, 2022	080102
Larimer (FEMA Docket No.: B–2182).	Unincorporated areas of Larimer County (21–08–0277P).	The Honorable John Kefalas, Chairman, Larimer County Board of Commissioners, 200 West Oak Street, Suite 2200, Fort Collins, CO 80521.	Larimer County Engineering Department, 200 West Oak Street, Suite 3000, Fort Collins, CO 80521.	Feb. 15, 2022	080101
Florida:					
Monroe (FEMA Docket No.: B–2178).	Unincorporated areas of Monroe County (21–04–4719P).	The Honorable Michelle Coldiron, Commissioner, Monroe County Board of Commissioners, 25 Ships Way, Big Pine Key, FL 33043.	Monroe County Building Department, 2798 Overseas Highway, Suite 300, Marathon, FL 33050.	Feb. 3, 2022	125129
Polk (FEMA Docket No.: B–2178).	Unincorporated areas of Polk County (21–04–1458P).	The Honorable Rick Wilson, Chairman, Polk County Board of Commissioners, P.O. Box 9005, Drawer BC01, Bartow, FL 33831.	Polk County Land Development Division 330 West Church Street, Bartow, FL 33830.	Feb. 10, 2022	120261
Polk (FEMA Docket No.: B–2175).	Unincorporated areas of Polk County (21–04–1668P).	The Honorable Rick Wilson, Chairman, Polk County Board of Commissioners, P.O. Box 9005, Drawer BC01, Bartow, FL 33831.	Polk County Land Development Division, 330 West Church Street, Bartow, FL 33830.	Feb. 3, 2022	120261
Sarasota (FEMA Docket No.: B–2178).	City of Sarasota (21–04–4173P).	The Honorable Hagen Brody, Mayor, City of Sarasota, 1565 1st Street, Room 101, Sarasota, FL 34236.	Development Services Department, 1565 1st Street, Sarasota, FL 34236.	Feb. 7, 2022	125120
Georgia: Barrow (FEMA Docket No.: B–2182).	Unincorporated areas of Barrow County (21–04–4537P).	The Honorable Pat Graham, Chair, Barrow County Board of Commissioners, 30 North Broad Street, Winder, GA 30680.	Barrow County Planning and Community Development Department, 30 North Broad Street, Winder, GA 30680.	Feb. 17, 2022	130497
Kentucky: Hardin (FEMA Docket No.: B–2182).	City of Elizabethtown (21–04–1010P)	The Honorable Jeffrey H. Gregory, Mayor, City of Elizabethtown, 200 West Dixie Avenue, Elizabethtown, KY 42701.	Stormwater Department, 200 West Dixie Avenue, Elizabethtown, KY 42701.	Feb. 18, 2022	210095
New Mexico:					
Bernalillo (FEMA Docket No.: B–2175).	Unincorporated areas of Bernalillo County (21–06–1463P).	The Honorable Charlene E. Pyskoty, Chair, Bernalillo County Board of Commissioners, 415 Silver Avenue Southwest, 8th Floor, Albuquerque, NM 87102.	Bernalillo County Public Works Division, 415 Silver Avenue Southwest, 5th Floor, Albuquerque, NM 87102.	Feb. 2, 2022	350001
Valencia (FEMA Docket No.: B–2175).	Pueblo of Isleta (21–06–0607P).	The Honorable Vernon Abeita, Governor, Pueblo of Isleta, P.O. Box 1290, Isleta, NM 87022.	Isleta Pueblo, Tribal Road 40, Building 117A, Isleta, NM 87022.	Feb. 4, 2022	350057
Valencia (FEMA Docket No.: B–2175).	Unincorporated areas of Valencia County (21–06–0607P).	Mr. Danny Monette, Valencia County Manager, P.O. Box 1119, Los Lunas, NM 87031.	Valencia County Planning and Zoning Department, 444 Luna Avenue, Los Lunas, NM 87031.	Feb. 4, 2022	350086
Valencia (FEMA Docket No.: B–2175).	Village of Los Lunas (21–06–0607P).	The Honorable Charles Griego, Mayor, Village of Los Lunas, P.O. Box 1209, Los Lunas, NM 87031.	Community Development Department, 600 Main Street Northwest, Los Lunas, NM 87031.	Feb. 4, 2022	350144
North Carolina:					
Johnston (FEMA Docket No.: B–2214).	Unincorporated areas of Johnston County (20–04–5908P).	The Honorable Chad Stewart, Chairman, Johnston County Board of Commissioners, P.O. Box 1049, Smithfield, NC 27577.	Johnston County Planning Department, 309 East Market Street, Clayton, NC 27520.	Feb. 17, 2022	370138
Orange (FEMA Docket No.: B–2214).	Unincorporated areas of Orange County (21–04–0006P).	The Honorable Renee Price, Chair, Orange County Board of Commissioners, P.O. Box 1303, Hillsborough, NC 27278.	Orange County Planning, Department, 131 West Margaret Lane, Hillsborough, NC 27278.	Feb 10, 2022	370342
Pender (FEMA Docket No.: B–2214).	Town of Burgaw (20–04–3993P)	The Honorable Kenneth Cowan, Mayor, Town of Burgaw, 109 North Walker Street, Burgaw, NC 28425.	Town Hall, 109 North Walker Street, Burgaw, NC 28425.	Feb. 11, 2022	370483
Union (FEMA Docket No.: B–2214).	Unincorporated areas of Union County (21–04–0276P).	The Honorable Richard Helms, Chairman, Union County Board of Commissioners, 500 North Main Street, Suite 918, Monroe, NC 28112.	Union County Planning Department, 500 North Main Street, Suite 70, Monroe, NC 28112.	Feb 18, 2022	370234
Pennsylvania:					

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Allegheny (FEMA Docket No.: B–2182).	Township of Harmar (21–03–0173P)	The Honorable Robert J. Exler, Chairman, Township of Harmar Board of Supervisors, 701 Freeport Road, Cheswick, PA 15024.	Harmar Zoning Department, 701 Freeport Road, Cheswick, PA 15024.	Feb. 7, 2022	421068
Allegheny (FEMA Docket No.: B–2182).	Township of Indiana (21–03–0173P)	Mr. Daniel L. Anderson, Township of Indiana Manager, 3710 Saxonburg Boulevard, Pittsburgh, PA 15238.	Indiana Code Enforcement Department, 3710 Saxonburg Boulevard, Pittsburgh, PA 15238.	Feb. 7, 2022	421070
South Carolina:					
Berkeley (FEMA Docket No.: B–2178).	Unincorporated areas of Berkeley County (21–04–5806P).	Mr. John Cribb, Berkeley County Supervisor, 1003 Highway 52, Moncks Corner, SC 29461.	Berkeley County Administration Building, 1003 Highway 52, Moncks Corner, SC 29461.	Feb. 3, 2022	450029
Charleston (FEMA Docket No.: B–2182).	Town of McClellanville (21–04–3970P).	The Honorable Rutledge B. Leland, III, Mayor, Town of McClellanville, 405 Pinckney Street, McClellanville, SC 29458.	Zoning Department, 405 Pinckney Street, McClellanville, SC 29458.	Feb. 17, 2022	450039
Charleston (FEMA Docket No.: B–2182).	Unincorporated areas of Charleston County (21–04–3970P).	The Honorable Teddie E. Pryor, Sr., Chairman, Charleston County Council, 4045 Bridge View Drive, North Charleston, SC 29405.	Charleston County Building Department, 4045 Bridge View Drive, North Charleston, SC 29405.	Feb. 17, 2022	455413
Texas:					
Bexar (FEMA Docket No.: B–2203).	City of San Antonio (21–06–1633P).	The Honorable Ron Nirenberg, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, TX 78283.	Stormwater Engineering Division, 114 West Commerce Street, 6th Floor, San Antonio, TX 78205.	Feb. 14, 2022	480045
Bexar (FEMA Docket No.: B–2203).	Unincorporated areas of Bexar County (21–06–1633P).	The Honorable Nelson W. Wolff, Bexar County Judge, 101 West Nueva Street, 10th Floor, San Antonio, TX 78205.	Bexar County Public Works Department, 1948 Probandt Street, San Antonio, TX 78214.	Feb. 14, 2022	480035
Tarrant (FEMA Docket No.: B–2182).	City of Mansfield (21–06–2343P).	The Honorable Michael Evans, Mayor, City of Mansfield, 1200 East Broad Street, Mansfield, TX 76063.	Department of Public Works, 1200 East Broad Street, Mansfield, TX 76063.	Feb. 17, 2022	480606
Williamson (FEMA Docket No.: B–2182).	Unincorporated areas of Williamson County (21–06–0778P).	The Honorable Bill Gravell, Jr., Williamson County Judge, 710 South Main Street, Suite 101, Georgetown, TX 78626.	Williamson County Engineering Department, 3151 Southeast Inner Loop, Georgetown, TX 78626.	Feb. 17, 2022	481079
Utah: Salt Lake (FEMA Docket No.: B–2182).	City of Riverton (21–08–0137P).	The Honorable Trent Staggs, Mayor, City of Riverton, 12830 South Redwood Road, Riverton, UT 84065.	Public Works Department, 12526 South 4150 West, Riverton, UT 84065.	Feb. 7, 2022	490104
West Virginia:					
Cabell (FEMA Docket No.: B–2182).	City of Milton (21–03–0959P).	The Honorable Tom Canterbury, Mayor, City of Milton, 1139 Smith Street, Milton, WV 25541.	City Hall, 1595 U.S. Route 60 East, Milton, WV 25541.	Feb. 14, 2022	540019
Cabell (FEMA Docket No.: B–2182).	Unincorporated areas of Cabell County (21–03–0959P).	The Honorable Jim Morgan, President, Cabell County Commission, 750 5th Avenue, Suite 300, Huntington, WV 25701.	Cabell County Office of Grants, Planning and Permits, 750 5th Avenue, Suite 314, Huntington, WV 25701.	Feb. 14, 2022	540016

[FR Doc. 2022–04901 Filed 3–7–22; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2022–0002; Internal Agency Docket No. FEMA–B–2220]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Federal Regulations. The currently effective community number is shown in the table below and must be used for all new policies and renewals.

DATES: These flood hazard determinations will be finalized on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has 90 days in which to request through the community that the Deputy Associate Administrator for Insurance and Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

ADDRESSES: The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA

Map Service Center at *https://msc.fema.gov* for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Arizona: Santa Cruz.	Unincorporated areas of Santa Cruz County (21–09–1274P).	The Honorable Manuel Ruiz, Chairman, Santa Cruz County Board of Supervisors, 2150 North Congress Drive, Suite 119, Nogales, AZ 85621.	Santa Cruz County Complex, 2150 North Congress Drive, Suite 116, Nogales, AZ 85621.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 21, 2022	040090
Colorado:						
Douglas	Town of Castle Rock (21–08–1028P).	The Honorable Jason Gray, Mayor, Town of Castle Rock, 100 North Wilcox Street, Castle Rock, CO 80104.	Stormwater Department, 175 Kellogg Court, 100 North Wilcox Street, Castle Rock, CO 80104.	*https://msc.fema.gov/portal/advanceSearch.fxsp0;msc.fema.gov/portal/advanceSearch.*	Jun. 10, 2022	080050
Douglas	Unincorporated areas of Douglas County (21–08–1028P).	The Honorable Lora Thomas, Chair, Douglas County Board of Commissioners, 100 3rd Street, Castle Rock, CO 80104.	Douglas County Department of Public Works, Engineering Division, 100 3rd Street, Castle Rock, CO 80104.	*https://msc.fema.gov/portal/advanceSearch.fxsp0;msc.fema.gov/portal/advanceSearch.*	Jun. 10, 2022	080049
Jefferson	Unincorporated areas of Jefferson County (21–08–0517P).	The Honorable Lesley Dahlkemper, Chair, Jefferson County Board of Commissioners, 100 Jefferson County Parkway, Suite 5550, Golden, CO 80419.	Jefferson County Planning and Zoning Division, 100 Jefferson County Parkway, Suite 3550, Golden, CO 80419.	*https://msc.fema.gov/portal/advanceSearch.fxsp0;msc.fema.gov/portal/advanceSearch.*	Jun. 10, 2022	080087
Florida:						
Charlotte	Unincorporated areas of Charlotte County (22–04–0620P).	The Honorable Bill Truex, Chairman, Charlotte County Board of Commissioners, 18500 Murdock Circle, Suite 536, Port Charlotte, FL 33948.	Charlotte County Community Development Department, 18400 Murdock Circle, Port Charlotte, FL 33948.	*https://msc.fema.gov/portal/advanceSearch.fxsp0;msc.fema.gov/portal/advanceSearch.*	Jun. 21, 2022	120061
Manatee	Unincorporated areas of Manatee County (21–04–2678P).	The Honorable Vanessa Baugh, Chair, Manatee County Board of Commissioners, 1112 Manatee Avenue West, Bradenton, FL 34205.	Manatee County Building and Development Services Department, 1112 Manatee Avenue West, Bradenton, FL 34205.	*https://msc.fema.gov/portal/advanceSearch.fxsp0;msc.fema.gov/portal/advanceSearch.*	May 26, 2022	120153
Polk	Unincorporated areas of Polk County (21–04–4272P).	Mr. Bill Beasley, Polk County Manager, 330 West Church Street, Bartow, FL 33831.	Polk County Land Development Division, 330 West Church Street, Bartow, FL 33831.	*https://msc.fema.gov/portal/advanceSearch.fxsp0;msc.fema.gov/portal/advanceSearch.*	Jun. 9, 2022	120261

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Sarasota	City of Sarasota (21–04–5582P).	The Honorable Erik Arroyo, Mayor, City of Sarasota, 1565 1st Street, Room 101, Sarasota, FL 34236.	Development Services Department, 1565 1st Street, Sarasota, FL 34236.	*https://msc.fema.gov/portal/advanceSearch-h.fxsp0;msc.fema.gov/portal/advanceSearch.*	Jun. 10, 2022	125150
Volusia	City of Port Orange (21–04–3762P).	Mr. Wayne Clark, Manager, City of Port Orange, 1000 City Center Circle, Port Orange, FL 32129.	Community Development Department, 1000 City Center Circle, Port Orange, FL 32129.	*https://msc.fema.gov/portal/advanceSearch-h.fxsp0;msc.fema.gov/portal/advanceSearch.*	Jun. 10, 2022	120313
Volusia	Unincorporated areas of Volusia County (21–04–3762P).	Mr. George Recktenwald, Manager, Volusia County, 123 West Indiana Avenue, DeLand, FL 32720.	Volusia County Growth and Resource Management Department, 123 West Indiana Avenue, DeLand, FL 32720.	*https://msc.fema.gov/portal/advanceSearch-h.fxsp0;msc.fema.gov/portal/advanceSearch.*	Jun. 10, 2022	125155
Georgia: Richmond	City of Augusta (20–04–6164P).	The Honorable Hardie Davis, Jr., Mayor, City of Augusta, 535 Telfair Street, Suite 200, Augusta, GA 30901.	Planning and Development Department, 535 Telfair Street, Suite 200, Augusta, GA 30901.	*https://msc.fema.gov/portal/advanceSearch-h.fxsp0;msc.fema.gov/portal/advanceSearch.*	Jun. 6, 2022	130158
Louisiana: Lafayette.	City of Lafayette (21–06–3367P).	The Honorable Josh Guillory, Mayor-President, Lafayette Consolidated Government, P.O. Box 4017–C, Lafayette, LA 70502.	Department of Community Development and Planning, 220 West Willow Street, Building B, Lafayette, LA 70501.	*https://msc.fema.gov/portal/advanceSearch-h.fxsp0;msc.fema.gov/portal/advanceSearch.*	May 13, 2022	220105
Maine: York	Town of Lyman (21–01–0760P).	The Honorable William Single, Chairman, Town of Lyman Board of Selectmen, 11 South Waterboro Road, Lyman, ME 04002.	Town Hall, 11 South Waterboro Road, Lyman, ME 04002.	*https://msc.fema.gov/portal/advanceSearch-h.fxsp0;msc.fema.gov/portal/advanceSearch.*	May 26, 2022	230195
Massachusetts: Essex.	City of Lynn (21–01–1255P).	The Honorable Thomas M. McGee, Mayor, City of Lynn, 3 City Hall Square, Room 306, Lynn, MA 01901.	Building Department, 3 City Hall Square, Lynn, MA 01901.	*https://msc.fema.gov/portal/advanceSearch-h.fxsp0;msc.fema.gov/portal/advanceSearch.*	May 10, 2022	250088
Nevada: Clark	City of Henderson (21–09–1537P).	Mr. Richard Derrick, Manager, City of Henderson, 240 South Water Street, Henderson, NV 89015.	City Hall, 240 South Water Street, Henderson, NV 89015.	*https://msc.fema.gov/portal/advanceSearch-h.fxsp0;msc.fema.gov/portal/advanceSearch.*	Jun. 10, 2022	320005
Pennsylvania: Montgomery.	Township of Upper Merion (21–03–1078P).	Mr. Anthony Hamaday, Manager, Township of Upper Merion, 175 West Valley Forge Road, King of Prussia, PA 19406.	Public Works Department, 175 West Valley Forge Road, King of Prussia, PA 19406.	*https://msc.fema.gov/portal/advanceSearch-h.fxsp0;msc.fema.gov/portal/advanceSearch.*	May 16, 2022	420957
Texas:						
Brazoria	City of Sweeny (21–06–0575P).	The Honorable Jeff Farley, Mayor, City of Sweeny, P.O. Box 248, Sweeny, TX 77480.	City Hall, 102 West Ashley Wilson Road, Sweeny, TX 77480.	*https://msc.fema.gov/portal/advanceSearch-h.fxsp0;msc.fema.gov/portal/advanceSearch.*	Jun. 16, 2022	485512
Brazoria	Unincorporated areas of Brazoria County (21–06–0575P).	The Honorable L.M. ''Matt'' Sebesta, Jr., Brazoria County Judge, 111 East Locust Street, Angleton, TX 77515.	Brazoria County West Annex Building, 451 North Velasco Street, Suite 210, Angleton, TX 77515.	*https://msc.fema.gov/portal/advanceSearch-h.fxsp0;msc.fema.gov/portal/advanceSearch.*	Jun. 16, 2022	485458
Kerr	City of Kerrville (21–06–1566P).	The Honorable Bill Blackburn, Mayor, City of Kerrville, 701 Main Street, Kerrville, TX 78028.	Engineering Department, 200 Sidney Baker Street, Kerrville, TX 78028.	*https://msc.fema.gov/portal/advanceSearch-h.fxsp0;msc.fema.gov/portal/advanceSearch.*	Jun. 3, 2022	480420
Kerr	Unincorporated areas of Kerr County (21–06–1566P).	The Honorable Rob Kelly, Kerr County Judge, 700 East Main Street, Kerrville, TX 78028.	Kerr County Engineering Department, 3766 State Highway 27, Kerrville, TX 78028.	*https://msc.fema.gov/portal/advanceSearch-h.fxsp0;msc.fema.gov/portal/advanceSearch.*	Jun. 3, 2022	480419
Virginia: Independent City.	City of Winchester (21–03–0399P).	The Honorable John D. Smith, Jr., Mayor, City of Winchester, 15 North Cameron Street, Winchester, VA 22601.	City Hall, 15 North Cameron Street, Winchester, VA 22601.	*https://msc.fema.gov/portal/advanceSearch-h.fxsp0;msc.fema.gov/portal/advanceSearch.*	May 11, 2022	510173

[FR Doc. 2022–04902 Filed 3–7–22; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7050–N–11]

30-Day Notice of Proposed Information Collection: Federal Labor Standards Monitoring Review Guides; OMB Control No.: 2501—Pending

AGENCY: Office of Policy Development and Research, Chief Data Officer, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* April 7, 2022.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_submission@omb.eop.gov* or *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Anna Guido, Reports Management Officer, QMAC, U.S. Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410, telephone (202) 402–5535 (this is not a toll free number) or email Anna Guido at *anna.p.guido@hud.gov* for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on December 21, 2021, at 86 FR 72269.

A. Overview of Information Collection

Title of Information Collection: Federal Labor Standards Monitoring Review Guides.

OMB Approval Number: Pending.

Type of Request: New.

Form Number:

- HUD–4741 Federal Labor Standards Agency On-Site Monitoring Review Guide
- HUD–4742 Federal Labor Standards Agency Remove Monitoring Review Guide
- HUD–4743 Federal Labor Standards State CDBG and HOME Monitoring Review Guide

Description of the need for the information and proposed use: HUD will use the information collected to ensure Local Contracting Agencies (Public Housing Agencies, Tribally Designated Housing Entities, Department of Hawaiian Home Lands, and HUD grantees) are compliant with Federal labor standards provisions. Based on the information provided, a HUD labor standards specialist determines if there are any findings or concerns (non-compliance with statutory, regulatory, and program requirements) that need to be addressed. If there are findings or concerns, the labor standards specialist will work with the Local Contracting Agency (LCA) to resolve the violation until the LCA is compliant again.

Respondents: HUD recipients of public housing financial assistance, certain HUD recipients of housing and community development financial assistance, certain other HUD grantees.

Estimated Number of Respondents:

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hours per response	Annual burden hours	Hourly cost per response	Total cost
HUD—4741 On-Site Monitoring Review Guide	66.00	1.00	66.00	0.50	33.00	$42.01	$1,386.33
HUD—4742 Remote Monitoring Review Guide	66.00	1.00	66.00	8.00	528.00	42.01	22,181.28
HUD—4743 State CDBG/HOME Monitoring Review Guide	65.00	1.00	65.00	0.50	32.50	42.01	1,365.33
Total	197.00		197.00		593.50		24,932.94

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

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

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

(5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

HUD encourages interested parties to submit comment in response to these questions.

(Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.)

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2022–04883 Filed 3–7–22; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–DTS#–33473; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting electronic comments on the significance of properties nominated before February 26, 2022, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted electronically by March 23, 2022.

ADDRESSES: Comments are encouraged to be submitted electronically to

National_Register_Submissions@nps.gov with the subject line ''Public Comment on <property or proposed district name, (County) State>.'' If you have no access to email you may send them via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C Street NW, MS 7228, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Sherry A. Frear, Chief, National Register of Historic Places/National Historic Landmarks Program, 1849 C Street NW, MS 7228, Washington, DC 20240, *sherry_frear@nps.gov,* 202–913–3763.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before February 26, 2022. Pursuant to Section 60.13 of 36 CFR part 60, comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Nominations submitted by State or Tribal Historic Preservation Officers:

IOWA

Jackson County

Bellevue Commercial Historic District, 100 North Riverview–318 South Riverview Dr., 100 North 2nd–307 South 2nd, 102 Market–203 West Market, 103–15 State Sts., Bellevue, SG100007558

Maquoketa Commercial Historic District, Main St. between Quarry and Maple Sts., including Platt and Pleasant Sts. one block east and west of Main St., Maquoketa, SG100007559

MASSACHUSETTS

Berkshire County

Otis Center Historic District, 11–29 East Otis, 12–41 Monterey, 14–144 North Main, 8–120 South Main, 25 and 37, Witter Rds., Otis, SG100007553

New Boston Village Historic District, 97–101 North Main and 79–110 South Main Sts. (MA 8), 2–4 Tolland (MA 57), 3–22 Sandisfield, (MA 57), and 2 River Rds., 4 Cannon Mountain and 3 & 5 Willow Lns., Sandisfield, SG100007554

MICHIGAN

Barry County

Michigan Central Railroad Middleville Depot, 128 High St., Middleville, SG100007564

MINNESOTA

Hennepin County

Coliseum Building and Hall, 2708 East Lake St., Minneapolis, SG100007557

Calvary Lutheran Church, 3901 Chicago Ave., Minneapolis, SG100007577

PENNSYLVANIA

Berks County

Hawk Mountain Sanctuary District, 1700 Hawk Mountain Rd., Albany, SG100007555

Northampton County

Mary Immaculate Seminary (MIS), 300 Cherryville Rd., Northampton, SG100007566

Schuylkill County

Hawk Mountain Sanctuary District, 1700 Hawk Mountain Rd., East Brunswick, SG100007555

Hawk Mountain Sanctuary District, 1700 Hawk Mountain Rd., West Brunswick, SG100007555

TENNESSEE

Meigs County

Georgetown Road, (Cherokee Trail of Tears MPS (Additional Documentation)), 8100 Block of TN 60, Georgetown vicinity, MP100007556

UTAH

Salt Lake County

Parade of Homes Lakewood Site Historic District, East Lone Peak and South Fairoaks Drs., Holladay, SG100007561

Utah County

Provo Community Congregational Church, 175 North University Ave., Provo, SG100007565

VERMONT

Addison County

Addison Town Hall, (Historic Government Buildings MPS), 4970 VT 22A, Addison, MP100007574

Windham County

Governor Hunt House, 322 Governor Hunt Rd., Vernon, SG100007573

VIRGINIA

Amherst County

Scott Zion Baptist Church, 2602 Galts Mill Rd., Madison Heights, SG100007568

Bedford County

Quarles-Walker House, 1318 Songbird Ave., Bedford vicinity, SG100007569

Botetourt County

Greenfield Kitchen and Quarters, International Pkwy. and US 220, Daleville vicinity, SG100007570

Fauquier County

Upperville Colt and Horse Show Grounds, 8301 John S. Mosby Hwy., Upperville vicinity, SG100007572

Franklin County

Craghead, John, House, 1609 Windlass Rd., Moneta vicinity, SG100007571

WISCONSIN

Fond Du Lac County

Winnebago Cheese Company, 233 West Division St., Fond du Lac, SG100007575

In the interest of preservation, a SHORTENED comment period has been requested for the following resource:

LOUISIANA

Orleans Parish

Dew Drop Inn, 2836 LaSalle St., New Orleans, SG100007552, Comment period: 3 days

Additional documentation has been received for the following resource:

MICHIGAN

Wayne County

Sweet, Ossian H., House (Additional Documentation), 2905 Garland St., Detroit, AD85000696

Nominations submitted by Federal Preservation Officers:

The State Historic Preservation Officer reviewed the following nominations and responded to the Federal Preservation Officer within 45 days of receipt of the nominations and supports listing the properties in the National Register of Historic Places.

ALASKA

Denali Borough

Little Annie Mine and Camp Site, (Kantishna Historic Mining Resources of Denali National Park and Preserve, MPS), South side of Skyline Drive, approx. 1.3 mi. east of jct. with Denali Park Rd., Denali vicinity, MP100007567

Peter Nelson Cabin Site, (Kantishna Historic Mining Resources of Denali National Park and Preserve, MPS), Along the south side of Eureka Creek roughly 2,300 feet northeast from its confluence with Lucky Gulch, Denali vicinity, MP100007576

(Authority: Section 60.13 of 36 CFR part 60)

Dated: March 1, 2022.

Sherry A. Frear,

Chief, National Register of Historic Places/National Historic Landmarks Program.

[FR Doc. 2022–04878 Filed 3–7–22; 8:45 am]

BILLING CODE 4312–52–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 *Core Orientation Systems, Products Containing Core Orientation Systems, Components Thereof, and Methods of Using the Same, DN 3607;* 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 Australian Mud Company Pty Ltd. and Reflex USA LLC on March 1, 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 core orientation systems, products containing core orientation systems, components thereof, and methods of using the same. The complainant names as respondents: Boart Longyear Group Ltd. of West Valley City, UT; Boart Longyear Limited of Australia; Boart Longyear Company of West Valley City, UT; Boart Longyear Manufacturing and Distribution Inc. of West Valley City, UT; Longyear TM, Inc. of West Valley City, UT; Globaltech Corporation Pty Ltd. of Australia; Globaltech Pty Ltd. of Australia; Granite Construction Incorporated of Watsonville, CA; and International Directional Services LLC of Chandler, AZ. 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 respondents, 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. 3607'') 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

[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.

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: March 2, 2022.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2022–04835 Filed 3–7–22; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–969]

Importer of Controlled Substances Application: S&B Pharma LLC

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: S&B Pharma LLC has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before April 7, 2022. Such persons may also file a written request for a hearing on the application on or before April 7, 2022.

ADDRESSES: The DEA requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on *https://www.regulations.gov.* If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment. All requests for a hearing must be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on December 24, 2021, S&B Pharma LLC, 405 South Motor Avenue, Azusa, California 91702, applied to be registered as an importer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
4-Anilino-N-Phenethyl-4-Piperdine (ANPP).	8333	II
Tapentadol	9780	II

The company plans to import intermediate forms of Tapentadol (9780) for further manufacturing prior to distribution to its customers. The company plans to import ANPP (8333) to bulk manufacture other controlled substances for distribution to its customers. No other activity for these drug codes is authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2).

Authorization will not extend to the import of Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

Matthew J. Strait,

Deputy Assistant Administrator.

[FR Doc. 2022–04805 Filed 3–7–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–973]

Bulk Manufacturer of Controlled Substances Application: Bulk Manufacturer of Marihuana: Tikun Olam Adelanto LLC

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: The Drug Enforcement Administration (DEA) is providing notice of an application it has received from an entity applying to be registered to manufacture in bulk basic class(es) of controlled substances listed in schedule I. DEA intends to evaluate this and other pending applications according to its regulations governing the program of growing marihuana for scientific and medical research under DEA registration.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefor, may file written comments on or objections to the issuance of the proposed registration on or before May 9, 2022.

ADDRESSES: DEA requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on *https://www.regulations.gov.* If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment.''

SUPPLEMENTARY INFORMATION: The Controlled Substances Act (CSA) prohibits the cultivation and distribution of marihuana except by persons who are registered under the CSA to do so for lawful purposes. In accordance with the purposes specified in 21 CFR 1301.33(a), DEA is providing notice that the entity identified below has applied for registration as a bulk manufacturer of schedule I controlled substances. In response, registered bulk manufacturers of the affected basic class(es), and applicants therefor, may file written comments on or objections of the requested registration, as provided in this notice. This notice does not constitute any evaluation or determination of the merits of the application submitted.

The applicant plans to manufacture bulk active pharmaceutical ingredients (APIs) for product development and distribution to DEA-registered researchers. If the application for registration is granted, the registrant would not be authorized to conduct other activity under this registration aside from those coincident activities specifically authorized by DEA regulations. DEA will evaluate the application for registration as a bulk manufacturer for compliance with all applicable laws, treaties, and regulations and to ensure adequate

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov.*

safeguards against diversion are in place.

As this applicant has applied to become registered as a bulk manufacturer of marihuana, the application will be evaluated under the criteria of 21 U.S.C. 823(a). DEA will conduct this evaluation in the manner described in the rule published at 85 FR 82333 on December 18, 2020, and reflected in DEA regulations at 21 CFR part 1318.

In accordance with 21 CFR 1301.33(a), DEA is providing notice that on September 30, 2021, Tikun Olam Adelanto LLC, 16605 Koala Road, Adelanto, California 92301–3925, applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substances:

Controlled substance	Drug code	Schedule
Marihuana Extract	7350	I
Marihuana	7360	I

Matthew J. Strait,

Deputy Assistant Administrator.

[FR Doc. 2022–04804 Filed 3–7–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–971]

Importer of Controlled Substances Application: Caligor Coghlan Pharma Services

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Caligor Coghlan Pharma Services has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before April 7, 2022. Such persons may also file a written request for a hearing on the application on or before April 7, 2022.

ADDRESSES: The DEA requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on *https://www.regulations.gov.* If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment. All requests for a hearing must be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on December 21, 2021, Caligor Coghlan Pharma Services, 1500 Business Park Drive, Unit B, Bastrop, Texas 78602, applied to be registered as an importer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Lysergic acid diethylamide.	7315	I

The company plans to import drug Lysergic acid diethylamide (7315) in finished dosage forms for pediatric clinical trials. No other activity for this drug code is authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

Matthew J. Strait,

Deputy Assistant Administrator.

[FR Doc. 2022–04807 Filed 3–7–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–970]

Importer of Controlled Substances Application: Siegfried USA, LLC

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Siegfried USA, LLC has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before April 7, 2022. Such persons may also file a written request for a hearing on the application on or before April 7, 2022.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on December 8, 2021, Siegfried USA, LLC, 33 Industrial Park Road, Pennsville, New Jersey 08070, applied to be registered as an importer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Phenylacetone	8501	II
Opium, raw	9600	II
Poppy Straw Concentrate.	9670	II

The company plans to import the listed controlled substances to manufacture bulk active pharmaceuticals ingredients (API) for distribution to its customers. Phenylacetone will be used to manufacture Amphetamine. No other

activity for this drug code is authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

Matthew J. Strait,

Deputy Assistant Administrator.

[FR Doc. 2022–04806 Filed 3–7–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–961]

Importer of Controlled Substances Application: ANI Pharmaceuticals Inc.

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: ANI Pharmaceuticals Inc. has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before April 7, 2022. Such persons may also file a written request for a hearing on the application on or before April 7, 2022.

ADDRESSES: The DEA requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on *https://www.regulations.gov.* If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment. All requests for a hearing must be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on January 6, 2022, ANI Pharmaceuticals Inc., 70 Lake Drive, East Windsor, New Jersey 08520, applied to be registered as an importer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Psilocybin	7437	I
Levorphanol	9220	II

The substance Levorphanol (9220) will be used to manufacture the Food and Drug Administration-approved dosage forms for distribution in the United States. The substance Psilocybin (7437) will be used to support formulation development and clinical trial research. No other activity for these drug codes are authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2).

Authorization will not extend to the import of Food Drug Administration-approved or non-approved finished dosage forms for commercial sale.

Matthew J. Strait,

Deputy Assistant Administrator.

[FR Doc. 2022–04803 Filed 3–7–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

[OMB Number 1117–0006]

Agency Information Collection Activities; Proposed eCollection, eComments Requested; Extension Without Change of a Previously Approved Collection; Application for Individual Manufacturing Quota for a Basic Class of Controlled Substance and for Ephedrine, Pseudoephedrine, and Phenylpropanolamine; DEA Form 189

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice, Drug Enforcement Administration (DEA), will be submitting the following information collection request to the Office of Management and Budget for review and approval in accordance with the Paperwork Reduction Act of 1995. This information collection is also associated with the proposed rulemaking ''Management of Quotas for Controlled Substances and List I Chemicals.'' It is likely that the final rule will not be published before this information collection expires on June 30, 2022. If the final rule does publish prior to the expiration, it will be published as the 30-Day Notice.

DATES: Comments are encouraged and will be accepted for 60 days until May 9, 2022.

FOR FURTHER INFORMATION CONTACT: If you have comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Scott A. Brinks, Regulatory Drafting and Policy Support Section (DPW), Diversion Control Division, Drug Enforcement Administration; Mailing Address: 8701 Morrissette Drive, Springfield, Virginia 22152; Telephone: (571) 776–2265.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information proposed to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection:* Extension of a currently approved collection.

2. *Title of the Form/Collection:* Application for Individual Manufacturing Quota for a Basic Class of Controlled Substance and for Ephedrine, Pseudoephedrine, and Phenylpropanolamine.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* DEA Form 189. The applicable component within the Department of Justice is the Drug Enforcement Administration, Diversion Control Division.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Affected public (Primary): Business or other for-profit.

Affected public (Other): None.

Abstract: Pursuant to 21 U.S.C. 826(c) and 21 CFR 1303.22 and 1315.22, any person who is registered to manufacture any basic class of controlled substances listed in Schedule I or II, or the List I chemicals ephedrine, pseudoephedrine, or phenylpropanolamine, and who desires to manufacture a quantity of such class or such List I chemical, must apply on DEA Form 189 for a manufacturing quota for such quantity of such class or List I chemical.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The DEA estimates 33 respondents complete 859 DEA Form 189 applications annually, and that each form takes 0.5 hours to complete.

6. *An estimate of the total public burden (in hours) associated with the proposed collection:* The DEA estimates this collection takes a total of 430 annual burden hours.

If additional information is required, please contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, Suite 3E.405B, Washington, DC 20530.

Dated: March 2, 2022.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2022–04786 Filed 3–7–22; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

[OMB Number 1117–0008]

Agency Information Collection Activities; Proposed eCollection, eComments Requested; Extension Without Change of a Previously Approved Collection; Application for Procurement Quota for Controlled Substance and for Ephedrine, Pseudoephedrine, and Phenylpropanolamine; DEA Form 250

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice, Drug Enforcement Administration (DEA), will be submitting the following information collection request to the Office of Management and Budget for review and approval in accordance with the Paperwork Reduction Act of 1995. This information collection is also associated with the proposed rulemaking ''Management of Quotas for Controlled Substances and List I Chemicals,'' published in the **Federal Register**. It is likely that the final rule will not be published before this information collection expires on June 30, 2022. If the final rule does publish prior to the expiration, it will be published as the 30-Day Notice.

DATES: Comments are encouraged and will be accepted for 60 days until May 9, 2022.

FOR FURTHER INFORMATION CONTACT: If you have comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Scott A. Brinks, Regulatory Drafting and Policy Support Section (DPW), Diversion Control Division, Drug Enforcement Administration; Mailing Address: 8701 Morrissette Drive, Springfield, Virginia 22152; Telephone: (571) 776–2265.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information proposed to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This information Collection

1. *Type of Information Collection:* Extension of a currently approved collection.

2. *Title of the Form/Collection:* Application for Procurement Quota for Controlled Substance and for Ephedrine, Pseudoephedrine, and Phenylpropanolamine.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* DEA Form 250. The applicable component within the Department of Justice is the Drug Enforcement Administration, Diversion Control Division.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Affected public (Primary): Business or other for-profit.

Affected public (Other): None.

Abstract: Pursuant to 21 U.S.C. 826 and 21 CFR 1303.12(b) and 1315.32, any person who desires to use, during the next calendar year, any basic class of controlled substances listed in schedules I or II, or the List I chemicals ephedrine, pseudoephedrine, or phenylpropanolamine for purposes of manufacturing must apply on DEA Form 250 for a procurement quota for such class or List I chemical.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The DEA estimates 344 respondents complete 3,066 DEA Form 250 applications annually, and that each form requires 0.5 hours to complete.

6. *An estimate of the total public burden (in hours) associated with the proposed collection:* The DEA estimates this collection takes a total of 1,533 annual burden hours.

If additional information is required, please contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution

Square, 145 N Street NE, Suite 3E.405B, Washington, DC 20530.

Dated: March 2, 2022.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2022–04785 Filed 3–7–22; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

[OMB Number 1117–0047]

Agency Information Collection Activities; Proposed eCollection, eComments Requested; Extension Without Change of a Previously Approved Collection; Application for Import Quota for Ephedrine, Pseudoephedrine, and Phenylpropanolamine; DEA Form 488

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Drug Enforcement Administration (DEA), Department of Justice, will be submitting the following information collection request to the Office of Management and Budget for review and approval in accordance with the Paperwork Reduction Act of 1995. This information collection is also associated with the proposed rulemaking ''Management of Quotas for Controlled Substances and List I Chemicals,'' published in the **Federal Register**. It is likely that the final rule will not be published before this information collection expires on May 31, 2022. If the final rule does publish prior to the expiration, it will be published as the 30-Day Notice.

DATES: Comments are encouraged and will be accepted for 60 days until May 9, 2022.

FOR FURTHER INFORMATION CONTACT: If you have comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Scott A. Brinks, Regulatory Drafting and Policy Support Section (DPW), Diversion Control Division, Drug Enforcement Administration; Mailing Address: 8701 Morrissette Drive, Springfield, Virginia 22152; Telephone: (571) 776–2265.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information proposed to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection:* Extension of a currently approved collection.

2. *Title of the Form/Collection:* Application for Import Quota for Ephedrine, Pseudoephedrine, and Phenylpropanolamine.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* DEA Form 488. The applicable component within the Department of Justice is the Drug Enforcement Administration, Diversion Control Division.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Affected public (Primary): Business or other for-profit.

Affected public (Other): Not-for-profit institutions; Federal, State, local, and tribal governments.

Abstract: Pursuant to 21 U.S.C. 952 and 21 CFR 1315.34, any person who desires to import the List I chemicals Ephedrine, Pseudoephedrine, or Phenylpropanolamine during the next calendar year must apply on DEA Form 488 for an import quota for each such List I chemical.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The DEA estimates 49 respondents complete 126 DEA Form 488 applications annually, and that each form takes 0.5 hours to complete. Respondents complete a separate DEA Form 488 for each List I chemical for which quota is sought.

6. *An estimate of the total public burden (in hours) associated with the proposed collection:* The DEA estimates this collection takes a total of 63 annual burden hours.

If additional information is required, please contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, Suite 3E.405B, Washington, DC 20530.

Dated: March 2, 2022.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2022–04787 Filed 3–7–22; 8:45 am]

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DEPARTMENT OF JUSTICE

Notice of Lodging Proposed Consent Decree

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States* v. *Polo Development, Inc., et al.,* Civil Action No. 4:20–cv–2400–JRA, was lodged with the United States District Court for the Northern District of Ohio on March 1, 2022.

This proposed Consent Decree concerns an amended complaint filed by the United States against Defendants Polo Development, Inc., AIM Georgia, LLC, Joseph Zdrilich, Donna Zdrilich, and Carbon Hills, LLC, pursuant to Section 309(b) of the Clean Water Act, 33 U.S.C. 1319(b), to obtain injunctive relief from and impose civil penalties against the Defendants for violating Section 301(a) of the Clean Water Act, 33 U.S.C. 1311(a), by discharging pollutants without a permit into waters of the United States. The proposed Consent Decree resolves these claims by requiring the Defendants to restore impacted areas, record a conservation easement, and pay a civil penalty.

The Department of Justice will accept written comments relating to this proposed Consent Decree for thirty (30) days from the date of publication of this Notice. Please address comments to Patrick R. Jacobi, United States Department of Justice, Environment and Natural Resources Division, Environmental Defense Section, Denver Place Building, 999 18th Street, Suite 370—South Terrace, Denver, CO 80202, *pubcomment_eds.enrd@usdoj.gov,* and refer to *United States* v. *Polo Development, Inc., et al.,* DJ #'s 90–5–1–1–21099, 90–5–1–1–22034.

Subject to public health protocols, the proposed Consent Decree may be

examined at the Clerk's Office, United States District Court for the Northern District of Ohio, 2 South Main Street, Akron, Ohio 44308. In addition, the proposed Consent Decree may be examined electronically at *http://www.justice.gov*/enrd/consent-decrees.

Cherie Rogers,

Assistant Section Chief, Environmental Defense Section, Environment and Natural Resources Division.

[FR Doc. 2022–04850 Filed 3–7–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

[Application Number D–11681]

ZRIN 1210–ZA18

Amendments to Class Prohibited Transaction Exemptions To Remove Credit Ratings Pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act

AGENCY: Employee Benefits Security Administration, U.S. Department of Labor.

ACTION: Notice of amendments to class exemptions.

SUMMARY: This document amends six class exemptions from prohibited transaction rules set forth in the Employee Retirement Income Security Act of 1974 (ERISA or the Act) and the Internal Revenue Code (the Code). The amended exemptions are Prohibited Transaction Exemptions (PTEs) 75–1, 80–83, 81–8, 95–60, 97–41 and 2006–16. The amendments relate to the use of credit ratings as conditions in these class exemptions. Section 939A of the Dodd-Frank Wall Street Reform and Consumer Protection Act requires the Department to remove any references to or requirements of reliance on credit ratings from its class exemptions and to substitute standards of creditworthiness as the Department determines to be appropriate. The amendments affect participants and beneficiaries of employee benefit plans, owners of individual retirement accounts (IRAs), fiduciaries of employee benefit plans and IRAs, and the financial institutions that engage in transactions with, or provide services or products to, the plans and IRAs.

DATES: This amendment will be in effect on May 9, 2022.

FOR FURTHER INFORMATION CONTACT: Susan Wilker, Office of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor, (202) 693–8540 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

Executive Order 12866 and 13563 Statement

Under Executive Orders 12866 and 13563, the Department must determine whether a regulatory action is ''significant'' and therefore subject to the requirements of the Executive Order and subject to review by the Office of Management and Budget (OMB). Executive Orders 13563 and 12866 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 (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 and streamlining rules, and of promoting flexibility. It also requires federal agencies to develop a plan under which the agencies will periodically review their existing significant regulations to make the agencies' regulatory programs more effective or less burdensome in achieving their regulatory objectives.

Under Executive Order 12866, ''significant'' regulatory actions are subject to the requirements of the Executive Order and review by OMB. Section 3(f) of Executive Order 12866, defines a ''significant regulatory action'' as an action that is likely to result in a rule (1) having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also referred to as an ''economically significant action''); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

In 2013, OMB determined that the proposal was significant within the meaning of section 3(f)(4) of the Executive Order. However, since then other regulators have adopted similar changes to their regulations and financial institutions have been complying with updated credit quality standards. Therefore, pursuant to the terms of the Executive Order, it has been determined that this action is not ''significant'' within the meaning of section 3(f) of the Executive Order and therefore is not subject to review by OMB. This action also does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Background

In the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank), Congress included provisions designed to reduce federal regulatory reliance on credit ratings, finding that in the financial crisis of 2008 certain credit ratings had been inaccurate, and that they ''contributed significantly to the mismanagement of risks by financial institutions and investors, which in turn adversely impacted the health of the economy in the United States and around the world.'' [1] Thus, Dodd-Frank required federal agencies, including the Department, to review any regulation that referenced or required credit ratings, and to remove the references or requirements and substitute standards of creditworthiness as the agency deemed appropriate.[2] As part of its compliance with Dodd-Frank, the Department conducted a review of its administrative class prohibited transaction exemptions.

In the absence of an exemption, ERISA and the Code prohibit certain transactions involving employee benefit plans and IRAs. Class exemptions granted by the Department provide prohibited transaction relief that is broadly available to any party that can satisfy its conditions and definitional provisions. Under the authority provided in ERISA section 408(a), the Department may grant such exemptions, provided the Secretary of Labor (the ''Secretary'') finds that the exemptions are (i) administratively feasible, (ii) in the interests of plans and IRAs, and their participants and beneficiaries, and (iii) protective of the rights of participants and beneficiaries of plans and IRAs.[3]

The Department's review of its class exemptions determined that PTEs 75–1,

[1] Dodd-Frank Wall Street Reform and Consumer Protection Act section 931(5), Public Law 111–203, 124 Stat. 1376 (2010).

[2] Id., section 939A.

[3] Code section 4975(c)(2) authorizes the Secretary of the Treasury to grant exemptions from the parallel prohibited transaction provisions of the Code. Reorganization Plan No. 4 of 1978 (5 U.S.C. app. at 214 (2000)) generally transferred the authority of the Secretary of the Treasury to grant administrative exemptions under Code section 4975 to the Secretary of Labor.

Parts III & IV,[4] 80–83,[5] 81–8,[6] 95–60,[7] 97–41,[8] and 2006–16 [9] (collectively, the ''Class Exemptions'') include references to, or require reliance on, credit ratings. Each Class Exemption provides relief for a transaction involving a financial instrument, and in each of the Class Exemptions, the Department conditioned exemptive relief on the financial instrument, or its issuer, receiving a specified minimum credit rating. The credit ratings conditions were part of the exemption safeguards designed to protect the interests of affected plans, participants and beneficiaries, and IRAs.

The credit ratings conditions in the Class Exemptions range from requiring a rating in one of the four highest generic categories of credit ratings (*i.e.,* an ''investment grade'' rating) to requiring a rating in one of the two highest generic categories of credit ratings from a nationally recognized statistical rating organization (NRSRO). In this regard, PTEs 75–1 and 80–83, which provide exemptions for securities transactions with plans and IRAs, required any non-convertible debt securities involved in a transaction to be rated in ''one of the four highest rating categories from a nationally recognized statistical rating organization[.]'' PTE 81–8 required commercial paper sold to plans or IRAs to possess a rating in ''one of the three highest rating categories by at least one nationally recognized statistical rating service.'' PTE 2006–16, which applies to securities lending transactions, included the following credit ratings requirements applicable to the loan's collateral: For letters of credit, the issuer must receive a credit rating of at least ''investment grade,'' while foreign sovereign debt securities must be rated in ''one of the two highest rating categories.'' [10] PTEs 95–60 and 97–41 do not require specific credit ratings, but instead refer generally to the credit ratings of certain financial instruments.

Following its review of the Class Exemptions, the Department proposed to amend them to remove references to and requirements to rely on credit ratings as required by Dodd-Frank.[11] In drafting the amendments to the Class Exemptions, the Department reviewed other agencies' methods of compliance with Dodd-Frank's required removal of references to credit ratings. The Department focused on the Securities and Exchange Commission's (SEC's) amended Investment Company Act rules 6a–5, 10f–3, 2a–7, and 5b–3.[12] Several requirements under the Investment Company Act historically relied on credit ratings from nationally recognized credit rating agencies. Following Dodd-Frank, the SEC issued new rules and amended existing ones to comply with the law and protect investors from the risks of over-reliance on credit ratings. The Department believes that the alternatives described in the SEC releases discussed below are instructive in its development of appropriate alternatives for credit ratings referenced in the Class Exemptions.

This document sets forth the Department's final amendments to the Class Exemptions. The Department is finalizing the amendments largely as proposed, with minor changes discussed below. The Department intends for the amended exemption conditions to require the same degree of credit quality the Class Exemptions required before the amendments, but without referencing or relying on credit ratings. Instead, parties relying on the exemptions must determine whether the requisite amended credit standards are satisfied. In amending the Class Exemptions, the Department has maintained the protections and safeguards that have historically been a part of the Class Exemptions. Therefore, the Secretary finds that the amended exemptions are (i) administratively feasible, (ii) in the interests of plans, their participants and beneficiaries, IRAs and IRA owners, and (iii) protective of the rights of participants and beneficiaries of plans and IRAs.

Description of the Proposal and Comments Received

The Proposal

The Department's proposal included credit standards to replace the following credit rating requirements set forth in the Class Exemptions: (i) A rating in one of the four highest rating categories from a NRSRO, or ''investment grade,'' (ii) a rating in one of the three highest rating categories by at least one NRSRO, and (iii) a rating in one of the two highest rating categories by at least one NRSRO. In its proposal, the Department relied on the approaches taken by the SEC in several rules issued under the Investment Company Act. The Department proposed to replace the requirement in each of PTE 75–1, Part III, Part IV, PTE 80–83 and PTE 2016–06 for a security to be ''investment grade'' or in one of the four highest rating categories from a NRSRO with a new standard requiring the securities to be (i) subject to no greater than moderate credit risk and (ii) sufficiently liquid that such securities can be sold at or near their fair market value within a reasonably short period of time. This amendment was based on the SEC's adoption of rule 6a–5 and amendment to rule 10f–3 under the Investment Company Act. In replacing the reference to credit ratings, the SEC stated that the standards aimed to ensure the securities are ''sufficiently high credit quality that they are likely to maintain a fairly stable market value and may be liquidated easily . . . .'' [13] In establishing the new standard, the SEC explained that ''[m]oderate credit risk would denote current low expectations of default risk associated with the security, with an adequate capacity for payment by the issuer of principal and interest.'' [14] The SEC made clear that NRSRO ratings may be relevant to these considerations, even though they cannot be relied upon solely.[15]

For PTE 81–8, the Department proposed to substitute ''subject to a minimal or low amount of credit risk and (ii) sufficiently liquid that such securities can be sold at or near their fair market value within a reasonably short period of time'' for a credit rating in one of the three highest rating categories. This proposal also was based

[4] 40 FR 50845 (October 31, 1975) as amended by 71 FR 5883 (February 3, 2006).

[5] 45 FR 73189 (November 4, 1980).

[6] 46 FR 7511 (January 23, 1981), as amended by 50 FR 14043 (April 9, 1985).

[7] 60 FR 35925 (July 12, 1995).

[8] 62 FR 42830 (August 8, 1997).

[9] 71 FR 63786 (October 31, 2006).

[10] The Department understands that ''investment grade'' is the common term for a credit rating in the highest four rating categories issued by a credit rating agency.

[11] 78 FR 37572 (June 21, 2013). The Department proposed the amendments on its own motion, pursuant to ERISA section 408(a) and Code section 4975(c)(2), and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (76 FR 66637 (October 27, 2011)).

[12] Among other things, the Investment Company Act seeks to address conflicts of interest in investment companies by requiring disclosure of material details about an investment company and placing restrictions on certain activities of registered investment companies. The Department also reviewed amendments made by the Commodity Futures Trading Commission (CFTC), the Office of the Comptroller of the Currency (OCC), the Federal Deposit Insurance Corporation (FDIC) and the National Credit Union Administration (NCUA). However, the Department determined that the SEC amendments described in the Department's 2013 proposal provide the most appropriate basis for amending the affected prohibited transaction class exemptions.

[13] 77 FR 70117, 70118 (November 23, 2012).

[14] *Id.*

[15] *Id.* (''In making their credit quality determinations, a BIDCO's [Business and Industrial Development Corporation] board of directors or members (or its or their delegate) can also consider credit quality reports prepared by outside sources, including NRSRO ratings, that the BIDCO board or members conclude are credible and reliable for this purpose.'')

on Rule 10f–3 under the Investment Company Act, which also required certain securities be rated in one of the *three* highest ratings from an NRSRO.[16] The SEC amended this rule to replace the credit ratings reference with a requirement that these less seasoned securities be ''sufficiently liquid that they can be sold at or near their carrying value within a reasonably short period of time'' and ''subject to a minimal or low amount of credit risk.'' [17] In its final amendment, the SEC explained that securities with a minimal or low amount of credit risk ''would be less susceptible to default risk (*i.e.,* have a low risk of default) than those with moderate credit risk. These securities (or their issuers) also would demonstrate a strong capacity for principal and interest payments and present above average creditworthiness relative to other municipal or tax-exempt issues (or issuers).'' [18]

PTE 2006–16 required foreign sovereign debt securities for foreign collateral used in securities lending transactions to be rated in one of the two highest categories of at least one NRSRO. The Department proposed to replace this requirement in PTE 2006–16 Section V(f)(4) with a requirement that the security be ''subject to a minimal amount of credit risk and (ii) sufficiently liquid that such securities can be sold at or near their fair market value in the ordinary course of business within seven calendar days.'' The minimal credit risk standard was based on the SEC's rule 2a–7, which applies to money market funds.[19] Before the credit rating reform amendment, rule 2a–7 limited money market funds to investing in debt obligations that, at the time of acquisition, qualified as ''eligible securities.'' The definition of ''eligible securities'' required an NRSRO rating in one of the two highest short-term rating categories. Rule 2a–7 distinguished between first tier securities (ones that the board of directors determined had the highest capacity to meet their short-term financial obligations) and second tier securities (all eligible securities that did not qualify as first tier securities).[20] In its final amendment, the SEC required that the fund's board determine the security presents ''minimal credit risks'' and codified certain factors that the board should consider in making this determination. As amended, the fund's board of directors must determine the security presents ''minimal credit risks.'' This determination must include an analysis of the security's issuer or guarantor's capacity to meet its financial obligations, based on its:

(A) Financial condition;

(B) Sources of liquidity;

(C) Ability to react to future market-wide and issuer- or guarantor-specific events, including ability to repay debt in a highly adverse situation; and

(D) Strength of the issuer or guarantor's industry within the economy and relative to economic trends, and issuer or guarantor's competitive position within its industry.

In the preamble, the SEC explained that most money market fund managers already considered these factors when making minimal credit risk determinations.[21]

The liquidity standard proposed in PTE 2006–16 Section V(f)(2) was based on SEC rule 5b–3, which allows a fund to look through repurchase agreements to the underlying collateral securities for certain counterparty limitation and diversification purposes if the collateral meets certain credit quality standards.[22] Before being amended under Dodd-Frank, rule 5b–3 applied to securities that, at the time of a repurchase agreement, ''rated in the highest rating category by the [r]equisite NRSROs.'' [23] The SEC amended rule 5b–3 to require the fund's board of directors (or its delegate) to determine that non-governmental collateral securities be issued by an issuer that has an ''exceptionally strong capacity to meet its financial obligations'' [24] and the securities must be ''sufficiently liquid that they can be sold at approximately their carrying value in the ordinary course of business within seven calendar days.'' [25] The SEC explained that the replacement standard was designed to retain a similar degree of credit quality to the highest rating category that was in the prior version of rule 5b–3.[26]

Comments Received

The Department received three comments in response to its 2013 proposal. The comments were generally supportive of the Department's approach in light of the Dodd-Frank requirement to remove credit ratings references and requirements, and commenters did not suggest specific changes to the language of the amendments. Because the Department had relied on the SEC's proposed amendment to rules 2a–7 and 5b–3 (which had not been finalized at the time of the proposal), two commenters asked the Department to wait to finalize its proposal until the SEC finalized all of its proposals. One commenter had already submitted comments to the SEC on its proposed amendment to rule 2a–7 and urged the Department to wait until the SEC addressed issues raised in those comments before finalizing its amendments that are based on the proposal. Since the Department issued it 2013 proposal, the SEC finalized its Dodd-Frank amendments to rules 2a–7 [27] in 2015 and 5b–3 in 2014.[28]

One comment included a general discussion on the usefulness of credit ratings, recommending that policy-makers acknowledge that credit ratings are one input to the investment analysis process, but one with value for investors.

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[16] See 44 FR 36153 (June 29, 1979).

[17] 73 FR 40124, 40130 (July 11, 2008).

[18] 74 FR 52358, 52364 (October 9, 2009).

[19] Investment Company Act rule 2a–7 allows money market funds to use special valuation and pricing procedures that help the fund maintain a stable net asset value per share (typically $1.00). 17 CFR 270.2a–7(a)(11)(i).

[20] See 56 FR 8113, 8125 (February 27, 1991) (adopting rule 2a–7 sections (a)(6) & (a)(14)). The SEC's 2011 proposal would have maintained this distinction between first and second tier securities, but a number of commenters objected. See 79 FR 47986, 47988–89 (August 14, 2014) (describing 2011 proposal). In re-proposing the amendment in 2014, the SEC proposed to combine these into a single standard that would require all eligible securities to present ''minimal credit risks,'' and the fund's board of directors to find that the security's issuer has an ''exceptionally strong capacity to meet its short-term financial obligations.'' *Id.* at 47989 and 48013. Commenters raised concerns with this proposed standard too, asserting that an ''exceptionally strong capacity'' could create an unclear standard for determining eligible securities. 80 FR 58124, 58127–28 (September 25, 2015).

[21] *Id.* at 58129.

[22] See References to Ratings of Nationally Recognized Statistical Rating Organizations: A Small Entity Compliance Guide, Feb. 4, 2014, available at *https://www.sec.gov/info/smallbus/secg/5b-3-small-entity-compliance-guide.htm.*

[23] 66 FR 36156, 36161 (July 11, 2001).

[24] 79 FR 1316, 1329 (January 8, 2014) (amending 17 CFR 270.5b–3(c)(1)(iv)(C)(1)).

[25] *Id.* at 1329, (amending 17 CFR 270.5b–3(c)(1)(iv)(C)(2)).

[26] See References to Ratings of Nationally Recognized Statistical Rating Organizations: A Small Entity Compliance Guide, Feb. 4, 2014, available at *https://www.sec.gov/info/smallbus/secg/5b-3-small-entity-compliance-guide.htm.*

[27] 80 FR 58124 (September 25, 2015). The SEC first re-proposed amendments to rule 2a–7. 79 FR 47986 (August 14, 2014). Under the new proposal, the fund's board of directors would be required to determine that any eligible security presented minimal credit risks, and that determination was required to include a finding that the security's issuer has an ''exceptionally strong capacity to meet its short-term financial obligations.'' (79 FR at 447989 and 48013.) Commenters raised concerns with this standard too, maintaining that an ''exceptionally strong capacity'' could create an unclear standard for determining eligible securities. (80 FR at 58127–28.) In its final amendment, the SEC required the board to determine that the security presents ''minimal credit risks,'' and codified certain factors relevant to money market funds the board of directors should consider in making this determination. (17 CFR 270.2a–7(a)(11)(i).)

[28] 79 FR 1316 (January 8, 2014).

Commenters asked the Department to provide additional guidance on how to comply with the amended exemptions. One commenter was concerned that plan fiduciaries may not be able to analyze credit quality on their own and recommended that the Department suggest certain financial ratios to help guide fiduciaries' analyses.[29] Another commenter specifically asked the Department to include a definition of ''minimal credit risk'' in its amendment to PTE 2006–16 Section V(f)(2). According to the commenter, the proposed language that the issuer ''has a strong ability to repay its debt obligations'' or a ''very low vulnerability to default'' was subjective, and fiduciaries would need additional information to determine if they were satisfying this condition.

Reopening the Comment Period

On June 24, 2021, the Department published a notice in the **Federal Register** reopening the comment period for its 2013 Dodd-Frank amendments.[30] The Department reopened the comment period due to the passage of time since the 2013 Proposal was published and solicited comments on all aspects of the 2013 Proposal to provide all interested parties with an opportunity to provide comments or new information. In the notice, the Department specifically sought comments regarding the following questions:

- Are changes to the 2013 Proposal's standards of creditworthiness necessary as a result of the SEC's finalization of amendments to Rules 2a–7 and 5b–3?
- Are changes to the 2013 Proposal's standards of creditworthiness necessary as a result of other regulators' actions removing references to credit ratings? For example, should the Department incorporate OCC, Federal Reserve Board, FDIC and/or NCUA standards developed for depository institutions? Have other regulators developed standards the Department should incorporate into the Class Exemptions? Are there particular challenges in the ERISA context to implementing any of those standards?
- Are changes to the 2013 Proposal's standards of creditworthiness necessary in light of business or other economic developments since the Department proposed changes to the Class Exemptions in 2013?
- Should references to ''fair market value'' in the 2013 Proposal's standards of creditworthiness be replaced with references to ''carrying value''? If so, please explain why.
- Do commenters recommend that the Department require financial institutions to adopt policies and procedures for compliance with the standards of creditworthiness? If so, please describe the types of specific policies and procedures that would be helpful. Do financial institutions already have similar policies and procedures in place? Will 180 days provide sufficient time for financial institutions that currently do not have such policies and procedures in place to adopt them?

The Department received one comment in response to the notice reopening the comment period. Kroll Bond Rating Agency, LLC (KBRA), a rating agency registered with the SEC, submitted a comment in support of the Department implementing section 939A of Dodd-Frank. Noting that many institutional investors require the use of one or more of the largest NRSROs, KBRA stated that those guidelines are outdated, because they were written before other rating agencies existed. KBRA did not address any of the specific questions the Department asked in the notice.

Descriptions of Final Amendments to Class Exemptions

In General

The Department is adopting the amendments as proposed in 2013, with minor changes to address comments on the 2013 proposal, including changes the SEC made in finalizing its Dodd-Frank amendments. These final amendments will be effective 60 days after the date they are published in the **Federal Register**.

Based on the SEC's 2011 proposed amendment to rule 2a–7, the Department's proposed amendment to PTE 81–8 would have required the commercial paper to be subject to minimal or low amount of credit risk ''based on factors pertaining to credit quality and the issuer's ability to meet its short-term financial obligations.'' However, the SEC did not include this ''based on'' language in its final amendment; therefore, the Department is similarly not including it in this final amendment.[31] The Department notes that a fiduciary may consider a variety of factors in making a determination of credit quality. While credit ratings may no longer serve as specific exemption requirements, fiduciaries are not prohibited from using them as an element or data point to analyze credit quality. The Department also is making certain ministerial changes to the Class Exemptions to correct prior typographical errors.

The Department is not suggesting that fiduciaries consider any specific financial ratios when analyzing credit quality, as suggested by one commenter, but it notes that fiduciaries have broad discretion in evaluating investments and may choose to incorporate financial ratios into their review of investment options. The Department also declines to provide a definition of ''minimal credit risk,'' because fiduciaries should be able to determine whether a security satisfies this standard based its analysis of the issuer's ability to repay its debt obligations. Fiduciaries that rely on the amended exemptions remain subject to the obligations described in ERISA section 404 such as prudence and loyalty, as well as all other conditions of the applicable Class Exemptions, including maintaining records to demonstrate compliance with exemption conditions. Fiduciaries are required to use a prudent process in evaluating whether investing in the securities is in the interests of plans and plan participants and beneficiaries and should document the processes they use to demonstrate compliance with the applicable exemption.

As stated above, these amendments to the Class Exemptions are designed to implement the mandate of Dodd-Frank section 939A to ''remove any reference to or requirement of reliance on credit ratings and to substitute in such regulations such standard of credit-worthiness as each respective agency shall determine as appropriate for such regulations.'' To meet this requirement, the Department has designed the amendments to retain the same degree of credit quality required under the Class Exemptions before the amendments without referencing or requiring reliance on credit ratings.

1. PTE 75–1

PTE 75–1 was granted by the Department shortly after the enactment of ERISA and provides relief for certain

[29] Fiduciary Counselors, comment letter submitted August 15, 2013. Available at *https://www.dol.gov/sites/default/files/ebsa/laws-and-regulations/rules-and-regulations/public-comments/1210-ZA18/00001.pdf* (recommending credit ratios such as Standard & Poor's Funds from Operations/Debt, Debt/Earnings Before Interests, Taxes, Interest, Depreciation and Amortization, and Debt/Capital). In addition, this commenter requested guidance on whether plan fiduciaries can rely on credit ratings in contexts other than the Class Exemptions, such as to satisfy its general fiduciary obligations under ERISA section 404. While this request is outside the scope of this document, the Department notes that nothing in Dodd-Frank prohibits the consideration of credit ratings in other contexts.

[30] 86 FR 33360 (June 24, 2021).

[31] The SEC proposed to amend rule 2a–7 in 2011, re-proposed a modified amendment in 2014, and finalized the amendment in 2015. 76 FR 12896 (March 9, 2011); 79 FR 47986 (August 14, 2014); 80 FR 58124 (September 25, 2015).

transactions that were customary at the time between plans and broker-dealers or banks.[32] PTE 75–1 Part III permits a fiduciary to cause a plan or IRA to purchase securities from a member of an underwriting syndicate other than the fiduciary when the fiduciary also is a member of the syndicate. PTE 75–1 Part IV permits a plan or IRA to purchase securities in a principal transaction from a fiduciary that is a market maker with respect to the securities. The relief afforded in these exemptions is generally conditioned on, among other things, the issuer of the securities having been in continuous operation for no less than three years. The Department intends this condition to ensure that the issued securities are more predictable regarding pricing and trading volume stability than securities issued by unproven entities with shorter operating histories. However, there is an exception from the three-year rule in both exemptions if the securities have ''sufficient credit quality,'' which is defined in the exemptions to mean that the investment is ''rated in one of the four highest rating categories by at least one nationally recognized statistical rating organization.'' This language recognized that credit rating is an indication of a security's credit quality by providing predictability on price, volatility, and ultimate payment of principal. Thus, any substitute for the credit rating requirement must provide the same level of protection for plans purchasing covered securities.

The Department is replacing the references to credit ratings in PTE 75–1 Part III Paragraph (c)(1) and Part IV Paragraph (a)(1) of PTE 75–1 with a requirement that, ''at the time of acquisition, such securities are nonconvertible debt securities that are (i) subject to no greater than moderate credit risk and (ii) sufficiently liquid that such securities can be sold at or near their fair market value within a reasonably short period of time.'' Thus, as amended, PTE 75–1, Part III(c)(1) and Part IV(a)(1) require securities to be issued by an issuer that has been in continuous operation for no less than three years, including the operations of any predecessors, unless, among other exceptions, the fiduciary directing the plan in the transaction has made a determination that the securities satisfy the amended credit standard when they are acquired. For purposes of this amendment, debt securities subject to a ''moderate credit risk'' should possess at least average credit-worthiness relative to other similar debt issues. Moderate credit risk denotes current low expectations of default risk, with an adequate capacity for payment of principal and interest.

The Department modeled this new standard on the SEC's adoption of rule 6a–5 and amendment to rule 10f–3 of the Investment Company Act. As described above, rules 6a–5 and 10f–3 each set forth a standard that replaced a reference to an ''investment grade'' rating, which the Department understands is the same as a reference to one of the four highest rating categories issued by at least one NRSRO. The amended standard in the exemptions thus preserves the purpose of the original conditions in PTE 75–1, Part III, paragraph (c)(1) and PTE 75–1, Part IV paragraph (a)(1) that restrict fiduciaries' acquisitions to purchases of securities of sufficiently high credit quality. Furthermore, because PTE 75–1, Part III and rule 10f–3 both involve the acquisition of securities in an underwriting, if there is a relationship between the acquiring fund or entity and a member of the underwriting syndicate, the Department is ensuring that the credit quality standard required under each rule is similar.

The Department views the new standard as reflecting the same level of credit quality that was required before this amendment. A fiduciary making these determinations is not precluded from considering credit quality reports prepared by outside sources that the fiduciary concludes are credible and reliable for this purpose, including credit ratings prepared by credit rating agencies.

2. PTE 80–83

PTE 80–83 generally provides relief for a fiduciary causing a plan or IRA to purchase a security when the proceeds of the securities issuance may be used by the issuer to retire or reduce indebtedness to the fiduciary or an affiliate.[33] If the fiduciary of the plan knows (as defined in the exemption) that the proceeds of the issue will be used in whole or in part by the issuer of the securities to reduce or retire indebtedness owed to the fiduciary or its affiliate, the issuer must have been in continuous operation for not less than three years. However, before this amendment, the exemption had an exception if the securities were non-convertible debt securities rated in one of the four highest rating categories by at least one nationally recognized statistical rating organization.

Similar to PTE 75–1, Parts III and IV, the Department is replacing the reference to credit ratings in PTE 80–83 with a requirement that, ''at the time of acquisition, such securities are non-convertible debt securities that are (i) subject to no greater than moderate credit risk and (ii) sufficiently liquid that such securities can be sold at or near their fair market value within a reasonably short period of time.''

For purposes of this amendment, debt securities subject to a moderate level of credit risk should possess at least average credit-worthiness relative to other similar debt issues. Moderate credit risk denotes current low expectations of default risk, with an adequate capacity for payment of principal and interest. The Department views this new standard as requiring debt securities to have the same level of credit quality that was required before this amendment.

3. PTE 81–8

PTE 81–8 permits employee benefit plans to invest plan assets in certain short-term investments, including commercial paper, issued by a party in interest.[34] As a condition of this relief, paragraph II(D) required the commercial paper to be ranked in one of the three highest rating categories by at least one NRSRO before this amendment. This condition allowed fiduciaries who made investment decisions regarding the short-term investments of a plan to choose from a broad range of issues of commercial paper while assuring that an independent third party has assessed the quality of the issue.

The Department is amending paragraph II(D) of PTE 81–8 to delete the reference to the credit rating of commercial paper and replace it with a requirement that, ''at the time of acquisition, the commercial paper is (i) subject to a minimal or low amount of credit risk and (ii) sufficiently liquid that such securities can be sold at or near their fair market value within a reasonably short period of time.'' This is a higher standard than the standard replacing ''investment grade'' in PTEs 75–1 Parts III and IV and 80–83. Commercial paper subject to a minimal or low credit risk would have a lower risk of default than commercial paper with moderate credit risk. These instruments also would demonstrate a

[32] Exemptions from Prohibitions Respecting Certain Classes of Transactions Involving Employee Benefit Plans and Certain Broker-Dealers, Reporting Dealers and Banks, 40 FR 50845 (October 31, 1975), as amended at 71 FR 5883 (February 3, 2006).

[33] Class Exemption for Certain Transactions Involving Purchase of Securities Where Issuer May Use Proceeds to Reduce or Retire Indebtedness to Parties in Interest, 45 FR 73189 (November 4, 1980), as amended at 67 FR 9483 (March 1, 2002).

[34] Class Exemption Covering Certain Short-term Investments, 46 FR 7511 (January 23, 1981), as amended by 50 FR 14043 (April 9, 1985).

strong capacity for principal and interest payments and present above-average credit-worthiness relative to other issues of commercial paper. The Department views the new standard as reflecting the same level of credit quality required before this amendment. As described above, ''minimal or low amount of credit risk'' is an element of the SEC's rule 10f–3 of the Investment Company Act.

The amended PTE 81–8 also relies on the SEC's amendment to rule 2a–7, which requires a security to present ''minimal credit risk'' to the fund. The Department's 2013 proposed amendment to PTE 81–8 would have required the commercial paper to be subject to minimal or low amount of credit risk ''based on factors pertaining to credit quality and the issuer's ability to meet its short-term financial obligations.'' The Department modeled this language on the SEC's 2011 proposed amendment to rule 2a–7, but the SEC did not include this ''based on'' language in its final amendment.[35] While the Department has therefore also not included these factors in its amendment to PTE 81–8, fiduciaries investing in commercial paper may choose to consult the factors described in the SEC's proposed amendment to rule 2a–7.

The Department discussed the credit rating requirement in the preamble to the original 1981 exemption. In response to the original 1980 proposal, commenters had raised concerns that the credit ratings condition would limit the investments available to the plan and could prevent plan fiduciaries from making independent judgments about appropriate investments. In finalizing the 1981 exemption, the Department determined that the credit rating condition was an important independent safeguard, but that it was not sufficient to conclude an investment was appropriate for a plan.[36] While the Department can no longer require a specified credit rating, the Department reiterates its position from 1981, that ''responsible plan fiduciaries, taking into account all the relevant facts and circumstances'' must determine whether a specific acquisition is appropriate for the plan. For purposes of this amendment, the Department believes that a fiduciary's determination of the commercial paper's credit quality according to the amended standard should, as a matter of prudence, include the reports or advice of independent third parties, including where appropriate, the commercial paper's credit rating.

4. PTE 95–60

The Department originally granted PTE 95–60[37] in response to the Supreme Court's decision in *John Hancock Mutual Life Insurance Co.* v. *Harris Trust & Savings Bank* (Harris Trust).[38] After the Court's decision, there was uncertainty with respect to a number of existing exemptions that had been granted for operating asset pool investment trusts that issue asset-backed, pass-through certificates to plans. Specifically, the Department had previously granted PTE 83–1[39] and the ''Underwriter Exemptions,''[40] which were conditioned, among other things, on the certificates that were purchased by plans not being subordinated to other classes of certificates issued by the same trust. In a typical asset pool investment trust, one or more classes of subordinated certificates are often purchased by life insurance companies. The Supreme Court held in *Harris Trust* that insurance company general accounts may be considered ''plan assets'' and raised the potential that servicers and trustees of pools may be engaging in prohibited transactions for the same acts involving the operation of trusts which would be exempt if the certificates were not subordinated.

PTE 95–60 Section III provided an exemption for the operation of asset pool investment trusts if, among other things, the conditions of either PTE 83–1 or an applicable Underwriter Exemption are met, other than the requirements that the certificates acquired by the general account not be subordinated and receive a rating that is in one of the three highest generic rating categories from an independent rating agency. The Department is amending PTE 95–60 Section III to delete this reference to credit ratings and replacing it with a general reference to the credit quality of the certificates, as required by the relevant underwriter exemption.[41] Thus, PTE 95–60 Section III(a)(2), as amended, provides that ''[t]he conditions of either PTE 83–1 or the relevant Underwriter Exemption are met, except for the requirements that . . . the certificates acquired by the general account have the credit quality required under the relevant Underwriter Exemption at the time of such acquisition.'' The Department believes that this modification will bring PTE 95–60 into compliance with Dodd-Frank without amending the Underwriter Exemptions.

5. PTE 97–41

If a plan is withdrawing all of its assets from a collective investment fund (CIF) that is maintained by a bank or plan adviser, and that bank or plan adviser is both the investment adviser to the mutual fund and also a fiduciary of the plan, PTE 97–41 permits the plan to purchase shares of mutual funds in exchange for plan assets that are transferred in-kind to the mutual fund from the CIF.[42] The exemption generally requires the transferred assets to constitute the plan's pro rata portion of the assets that were held by the CIF immediately before the transfer. However, original Section II(c) provided an exception if, among other requirements, at the time of the transfer, the securities have the same credit

[35] The SEC proposed to amend rule 2a–7 in 2011, re-proposed a modified amendment in 2014, and finalized the amendment in 2015. 76 FR 12896 (March 9, 2011); 79 FR 47986 (August 14, 2014); 80 FR 58124 (September 25, 2015).

[36] 46 FR 7509, 7512 (January 23, 1981).

[37] Class Exemption for Certain Transactions Involving Insurance Company General Accounts, 60 FR 35925 (July 12, 1995).

[38] 510 US 86 (1993).

[39] 48 FR 895 (January 7, 1983). PTE 83–1 provides relief for the operation of certain mortgage pool investment trusts and the acquisition and holding by plans of certain mortgage-backed pass-through certificates evidencing interests therein.

[40] The Underwriter Exemptions are comprised of a number of individual exemptions that rely on credit ratings. See, *e.g.,* PTE 2009–31 (74 FR 59003, November 16, 2009)), amending existing exemptions which provided relief for the operation of certain asset pool investment trusts and the acquisition and holding by plans of certain asset-based pass-through certificates representing interests in those trusts. The amendment provided a six-month period to resolve certain affiliations as a result of corporate transactions.

[41] The term ''Underwriter Exemption'' refers to the following individual Prohibited Transaction Exemptions (PTEs)—PTE 89–88, 54 FR 42582 (October 17, 1989); PTE 89–89, 54 FR 42569 (October 17, 1989); PTE 89–90, 54 FR 42597 (October 17, 1989); PTE 90–22, 55 FR 20542 (May 17, 1990); PTE 90–23, 55 FR 20545 (May 17, 1990); PTE 90–24, 55 FR 20548 (May 17, 1990); PTE 90–28, 55 FR 21456 (May 24, 1990); PTE 90–29, 55 FR 21459 (May 24, 1990); PTE 90–30, 55 FR 21461 (May 24, 1990); PTE 90–31, 55 FR 23144 (June 6, 1990); PTE 90–32, 55 FR 23147 (June 6, 1990); PTE 90–33, 55 FR 23151 (June 6, 1990); PTE 90–36, 55 FR 25903 (June 25, 1990); PTE 90–39, 55 FR 27713 (July 5, 1990); PTE 90–59, 55 FR 36724 (September 6, 1990); PTE 90–83, 55 FR 50250 (December 5, 1990); PTE 90–84, 55 FR 50252 (December 5, 1990); PTE 90–88, 55 FR 52899 (December 24, 1990); PTE 91–14, 55 FR 48178 (February 22, 1991); PTE 91–22, 56 FR 03277 (April 18, 1991); PTE 91–23, 56 FR 15936 (April 18, 1991); PTE 91–30, 56 FR 22452 (May 15, 1991); PTE 91–39, 56 FR 33473 (July 22, 1991); PTE 91–62, 56 FR 51406 (October 11, 1991); PTE 93–6, 58 FR 07255 (February 5, 1993); PTE 93–31, 58 FR 28620 (May 5, 1993); PTE 93–32, 58 FR 28623 (May 14, 1993); PTE 94–29, 59 FR 14675 (March 29, 1994); PTE 94–64, 59 FR 42312 (August 17, 1994); PTE 94–70, 59 FR 50014 (September 30, 1994); PTE 94–73, 59 FR 51213 (October 7, 1994); PTE 94–84, 59 FR 65400 (December 19, 1994); and any other exemption providing similar relief to the extent that the Department expressly determines, as part of the proceeding to grant such exemption, to include the exemption within this definition.

[42] Class Exemption for Collective Investment Fund Conversion Transactions 62 FR 42830 (August 8, 1997).

ratings from nationally recognized statistical rating organizations. This exception allowed plans to avoid the transaction costs involved in liquidating small positions in fixed-income securities that are not divisible or that can be divided only at substantial cost before their maturity.

The Department is amending the exemption by deleting the requirement that the securities transferred in-kind from a CIF to a mutual fund have the same credit ratings and replacing it with a requirement that the securities must be of the same credit quality. Section II(c), as amended, provides that the allocation of fixed-income securities held by a CIF among the plans on the basis of each plan's pro rata share of the aggregate value of the securities will not fail to meet the requirements of Section II(c) if, among other requirements, the ''securities have the same coupon rate and maturity and at the time of transfer, the same credit quality.''

In making the determination as to the credit quality of fixed income securities for purposes of this amended condition, the Department notes that a fiduciary should, to the extent possible, engage in credit quality comparisons of securities using the same standards (*e.g.,* employing the same metrics) for each set of securities. The Department believes that an ''apples to apples'' comparison of the credit quality of each security taking into account the same variables would satisfy the amended condition in Section II(c)(2). Furthermore, the Department notes that a fiduciary may rely on reports and advice given by independent third parties, including ratings issued by rating agencies, when making a credit quality determination.

6. PTE 2006–16

PTE 2006–16 permits lending securities that are employee benefit plan assets to certain banks and broker-dealers that are parties in interest to the plan.[43] Specific conditions apply to ''Foreign Collateral.'' Under Section V(f)(2) Foreign Collateral included ''foreign sovereign debt securities provided that at least one nationally recognized statistical rating organization has rated in one of its two highest categories either the issue, the issuer or guarantor.'' Under Section V(f)(4) Foreign Collateral included ''irrevocable letters of credit issued by a Foreign Bank, other than the borrower or an affiliate thereof, which has a counterparty rating of investment grade or better as determined by a nationally recognized statistical rating organization.''

The Department is amending Section V(f)(4) to delete the reference to credit ratings and provide that ''Foreign Collateral'' will include ''irrevocable letters of credit issued by a Foreign Bank, other than the borrower or an affiliate thereof, provided that, at the time the letters of credit are issued, the Foreign Bank's ability to honor its commitments thereunder is subject to no greater than moderate credit risk.'' To satisfy this credit risk requirement, a Foreign Bank would demonstrate at least average credit-worthiness relative to other issuers of similar debt. Moderate credit risk would denote current low expectations of default risk, with an adequate capacity for payment of principal and interest.

In amending Section V(f)(4), the Department is relying on the SEC rule 6a–5. As described above, rule 6a–5 relies on the issuing bank's ability to honor its commitment under the letter of credit, and was designed to reflect the same level of credit quality as the credit ratings they replaced in the Investment Company Act, similar to the ''investment grade'' standard being replaced in Section V(f)(4) of PTE 2006–16.

The Department is amending Section V(f)(2) to delete the reference to credit ratings and provide that ''Foreign Collateral'' will include foreign sovereign debt securities that are ''(i) subject to a minimal amount of credit risk, and (ii) sufficiently liquid that such securities can be sold at or near their fair market value in the ordinary course of business within seven calendar days.'' To satisfy this credit-worthiness requirement the foreign sovereign debt security should have a very strong ability to repay its debt obligations, and a very low vulnerability to default.

In making this amendment, the Department is relying on SEC's amendment to rules 2a–7 and 5b–3. The amendment to rule 2a–7 governs the securities that certain money market funds may hold as investments. Despite the request in the public comments to define ''minimal credit risk,'' the Department is not adding a definition of such term to the exemption text. The Department believes that the ''minimal credit risk'' standard in rule 2a–7 is an appropriate model for the alternative standard of credit quality in Section V(f)(2), as both provisions reflect credit ratings in one of the two highest rating categories. However, while rule 2a–7 is limited to short-term securities, foreign sovereign debt securities described in Section V(f)(2) could be either long-term or short-term securities. Therefore, the Department did not include the SEC's language from rule 2a–7 describing the factors to consider. In the case of a short-term foreign sovereign debt security, fiduciaries may wish to consider the issuer's ability to meet its short-term obligations and the factors discussed by the SEC in rule 2a–7 in evaluating the security's credit quality.

The Department's approach also relies on SEC rule 5b–3 which relates to funds entering into repurchase agreements that are collateralized with certain high credit-quality securities. The Department believes that the economic considerations and regulatory framework underpinning securities repurchase agreements is similar to that for securities lending transactions. Thus, the liquidity requirement in amended rule 5b–3 (''sufficiently liquid'' that the securities ''can be sold at approximately their carrying value in the ordinary course of business within seven calendar days'') is appropriate for the alternative standard of credit quality in PTE 2006–16, Section V(f)(2). The Department has determined that the credit risk associated with this new language would differ only slightly from the prior language requiring highest credit quality.

Regarding Sections V(f)(2) and V(f)(4) of PTE 2006–16, the Department notes that lending fiduciaries making determinations of credit quality retain the ability after the amendment to consider credit quality determinations prepared by outside sources, including credit ratings issued by rating organizations that fiduciaries conclude are credible and reliable in making determinations of credit worthiness.

Paperwork Reduction Act

According to the Paperwork Reduction Act of 1995 (Pub. L. 104–13) (the PRA), no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The Department notes that a Federal agency cannot conduct or sponsor a collection of information unless it is approved by OMB under the PRA, and displays a currently valid OMB control number, and the public is not required to respond to a collection of information unless it displays a currently valid OMB control number. See 44 U.S.C. 3507. Also, notwithstanding any other provisions of law, no person shall be subject to penalty for failing to comply with a collection of information if the collection of information does not display a currently valid OMB control number. *See* 44 U.S.C. 3512.

[43] Class Exemption To Permit Certain Loans of Securities by Employee Benefit Plans 71 FR 63786 (October 31, 2006).

The Department has not made a submission to OMB at this time, because the final amendments do not revise the information collection requests contained in the following PTEs: PTE 75–1, which currently is approved by OMB under OMB Control Number 1210–0092 until August 31, 2022; PTE 80–83, which currently is approved by OMB under OMB Control Number 1210–0064 until January 31, 2023; PTE 81–8, which currently is approved by OMB under OMB Control Number 1210–0061 until January 31, 2024; PTE 95–60, which currently is approved by OMB under OMB Control Number 1210–0114 until November 30, 2024; PTE 97–41, which is approved by OMB under OMB Control Number 1210–0104 until April 30, 2022; and PTE 2006–16, which currently is approved by OMB under OMB Control Number 1210–0065 until October 31, 2022.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under ERISA section 408(a) and Code section 4975(c)(2) does not relieve a fiduciary, or other party in interest or disqualified person with respect to a plan, from certain other provisions of ERISA and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of ERISA section 404 which require, among other things, that a fiduciary act prudently and discharge his or her duties respecting the plan solely in the interests of the participants and beneficiaries of the plan. Additionally, the fact that a transaction is the subject of an exemption does not affect the requirement of Code section 401(a) that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The Department finds that the exemptions, as amended, are administratively feasible, in the interests of plans, their participants and beneficiaries, IRAs and IRA owners, and protective of the rights of participants and beneficiaries of plans and IRAs;

(3) The exemptions, as amended, are applicable to a particular transaction only if the transaction satisfies the conditions specified in the exemption; and

(4) The exemptions, as amended, are supplemental to, and not in derogation of, any other provisions of ERISA and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

The Department has republished the entire text of the amended PTEs for the convenience of readers. The Department does not intend to make any substantive changes to the PTEs by republishing the full text of the PTEs in this **Federal Register** notice other than the credit rating amendments.

PTE 75–1

Part III is amended to read as follows:

The restrictions of section 406 of the Employee Retirement Income Security Act of 1974 (the Act) and the taxes imposed by section 4975(a) and (b) of the Internal Revenue Code of 1954 (the Code), by reason of section 4975(c)(1) of the Code, shall not apply to the purchase or other acquisition of any securities by an employee benefit plan during the existence of an underwriting or selling syndicate with respect to such securities, from any person other than a fiduciary with respect to the plan, when such a fiduciary is a member of such syndicate, provided that the following conditions are met:

(a) No fiduciary who is involved in any way in causing the plan to make the purchase is a manager of such underwriting or selling syndicate, except that this paragraph shall not apply until July 1, 1977. For purposes of this exemption, the term ''manager'' means any member of an underwriting or selling syndicate, who, either alone or together with other members of the syndicate, is authorized to act on behalf of the members of the syndicate in connection with the sale and distribution of the securities being offered or who receives compensation from the members of the syndicate for its services as a manager of the syndicate.

(b) The securities to be purchased or otherwise acquired are—

(1) Part of an issue registered under the Securities Act of 1933 or, if exempt from such registration requirement, are (i) issued or guaranteed by the United States or by any person controlled or supervised by and acting as an instrumentality of the United States pursuant to authority granted by the Congress of the United States, (ii) issued by a bank, (iii) issued by a common or contract carrier, if such issuance is subject to the provisions of section 20a of the Interstate Commerce Act, as amended, (iv) exempt from such registration requirement pursuant to a Federal statue other than the Securities Act of 1933, or (v) are the subject of a distribution and are of a class which is required to be registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 781), and the issuer of which has been subject to the reporting requirements of section 13 of that Act (15 U.S.C. 78m) for a period of at least 90 days immediately preceding the sale of securities and has filed all reports required to be filed thereunder with the Securities and Exchange Commission during the preceding 12 months.

(2) Purchased at not more than the public offering price prior to the end of the first full business day after the final terms of the securities have been fixed and announced to the public, except that:

(i) If such securities are offered for subscription upon exercise of rights, they are purchased on or before the fourth day preceding the day on which the rights offering terminates; or

(ii) If such securities are debt securities, they may be purchased at a public offering price on a day subsequent to the end of such first full business day, provided that the interest rates on comparable debt securities offered to the public subsequent to such first full business day and prior to the purchase are less than the interest rate of the debt securities being purchased.

(3) Offered pursuant to an underwriting agreement under which the members of the syndicate are committed to purchase all of the securities being offered, expect if—

(i) Such securities are purchased by others pursuant to a rights offering; or

(ii) Such securities are offered pursuant to an over-allotment option.

(c) The issuer of such securities has been in continuous operation for not less than three years, including the operations of any predecessors, unless—

(1) Effective May 9, 2022, at the time of acquisition, such securities are nonconvertible debt securities that are (i) subject to no greater than moderate credit risk and (ii) sufficiently liquid that such securities can be sold at or near their fair market value within a reasonably short period of time;

(2) Such securities are issued or fully guaranteed by a person described in paragraph (b)(1)(i) of this exemption; or

(3) Such securities are fully guaranteed by a person who has issued securities described in in paragraph (b)(1)(ii), (iii), (iv) or (v) and this paragraph (c).

(d) The amount of such securities to be purchased or otherwise acquired by the plan does not exceed three percent of the total amount of such securities being offered.

(e) The consideration to be paid by the plan in purchasing or otherwise

acquiring such securities does not exceed three percent of the fair market value of the total assets of the plan as of the last day of the most recent fiscal quarter of the plan prior to such transaction, provided that if such consideration exceeds $1 million, it does not exceed one percent of such fair market value of the total assets of the plan.

(f) The plan maintains or causes to be maintained for a period of six years from the date of such transaction such records as are necessary to enable the persons described in paragraph (g) of this exemption to determine whether the conditions of this exemption have been met, except that a prohibited transaction will not be deemed to have occurred if, due to circumstances beyond the control of the plan fiduciaries, such records are lost or destroyed prior to the end of such six-year period.

(g) Notwithstanding anything to the contrary in subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (f) are unconditionally available for examination during normal business hours by duly authorized employees of (1) the Department of Labor, (2) the Internal Revenue Service, (3) plan participants and beneficiaries, (4) any employer of plan participants and beneficiaries, and (5) any employee organization any of whose members are covered by such plan.

If such securities are purchased by the plan from a party in interest or disqualified person with respect to the plan, such party in interest or disqualified person shall not be subject to the civil penalty which may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975(a) and (b) of the Code, if the conditions of this exemption are not met. However, if such securities are purchased from a party in interest or disqualified person with respect to the plan, the restrictions of section 406(a) of the Act shall apply to any fiduciary with respect to the plan and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall apply to such party in interest or disqualified person, unless the conditions for exemption of Part II of this notice (relating to certain principal transactions) are met.

For purposes of this exemption, the term ''fiduciary'' shall include such fiduciary and any affiliates of such fiduciary, and the term ''affiliate'' shall be defined in the same manner as that term is defined in 29 CFR 2510.3–21(e) and 26 CFR 54.4975–9(e). Part IV is amended to read as follows:

The restrictions of section 406 of the Employee Retirement Income Security Act of 1974 (the Act) and the taxes imposed by section 4975(a) and (b) of the Internal Revenue Code of 1954 (the Code), by reason of section 4975(c)(1) of the Code, shall not apply to any purchase or sale of any securities by an employee benefit plan from or to a market-maker with respect to such securities who is also a fiduciary with respect to such plan, provided that the following conditions are met:

(a) The issuer of such securities has been in continuous operation for not less than three years, including the operations of any predecessors, unless—

(1) Effective May 9, 2022, at the time of acquisition, such securities are nonconvertible debt securities that are (i) subject to no greater than moderate credit risk and (ii) sufficiently liquid that such securities can be sold at or near their fair market value within a reasonably short period of time;

(2) Such securities are issued or guaranteed by the United States or by any person controlled or supervised by and acting as an instrumentality of the United States pursuant to authority granted by the Congress of the United States, or

(3) Such securities are fully guaranteed by a person described in this paragraph (a).

(b) As a result of purchasing such securities—

(1) The fair market value of the aggregate amount of such securities owned, directly or indirectly, by the plan and with respect to which such fiduciary is a fiduciary, does not exceed three percent of the fair market value of the assets of the plan with respect to which such fiduciary is a fiduciary, as of the last day of the most recent fiscal quarter of the plan prior to such transaction, provided that if the fair market value of such securities exceeds $1 million, it does not exceed one percent of such fair market value of such assets of the plan, except that this paragraph shall not apply to securities described in paragraph (a)(2) of this exemption; and

(2) The fair market value of the aggregate amount of all securities for which such fiduciary is a market-maker, which are owned, directly or indirectly, by the plan and with respect to which such fiduciary is a fiduciary, does not exceed 10 percent of the fair market value of the assets of the plan with respect to which such fiduciary is a fiduciary, as of the last day of the most recent fiscal quarter of the plan prior to such transaction, except that this paragraph shall not apply to securities described in paragraph (a)(2) of this exemption.

(c) At least one person other than such fiduciary is a market-maker with respect to such securities.

(d) The transaction is executed at a net price to the plan for the number of shares or other units to be purchased or sold in the transaction which is more favorable to the plan than that which such fiduciary, acting in good faith, reasonably believes to be available at the time of such transaction from all other market-makers with respect to such securities.

(e) The plan maintains or causes to be maintained for a period of six years from the date of such transaction such records as are necessary to enable the persons described in paragraph (f) of this exemption to determine whether the conditions of this exemption have been met, except that a prohibited transaction will not be deemed to have occurred if, due to circumstances beyond the control of the plan fiduciaries, such records are lost or destroyed prior to the end of such six year period.

(f) Notwithstanding anything to the contrary in subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (e) are unconditionally available for examination during normal business hours by duly authorized employees of (1) the Department of Labor, (2) the Internal Revenue Service, (3) plan participants and beneficiaries, (4) any employer of plan participants and beneficiaries, and (5) any employee organization any of whose members are covered by such plan.

For purposes of this exemption—

(1) The term ''market-maker'' shall mean any specialist permitted to act as a dealer, and any dealer who, with respect to a security, holds himself out (by entering quotations in an inter-dealer communications system or otherwise) as being willing to buy and sell such security for his own account on a regular or continuous basis.

(2) The term ''fiduciary'' shall include such fiduciary and any affiliates of such fiduciary, and the term ''affiliate'' shall be defined in the same manner as that term is defined in 29 CFR 2510.3–21(e) and 26 CFR 54.4975–9(e).

PTE 80–83

PTE 80–83 is amended to read as follows:

I. Transactions

A. Effective January 1, 1975 the restrictions of section 406(a)(1)(A) through (D) of the Act and the taxes

imposed by reason of section 4975(c)(1)(A) through (D) of the Code shall not apply to the purchase or other acquisition prior to December 1, 1980 in a public offering (defined in Section II(B)) of securities by a fiduciary on behalf of an employee benefit plan solely because the proceeds from the sale were or were to be used by the issuer of the securities to retire or reduce indebtedness owed to a party in interest with respect to the plan other than the fiduciary, *provided that* the price paid by the plan for the securities does not exceed adequate consideration as defined in section 3(18) of the Act.

B. Subject to the conditions described in section II(A), effective December 1, 1980, the restrictions of sections 406(a)(1)(A) through (D) of the Act and the taxes imposed by reason of section 4975(c)(1)(A) through (D) of the Code shall not apply to the purchase or other acquisition in a public offering (defined in section II(B)) of securities by a fiduciary on behalf of an employee benefit plan solely because the proceeds from the sale may be used by the issuer of the securities to retire or reduce indebtedness owed to a party in interest of the plan other than the fiduciary.

C. Subject to conditions described in section II(A), effective January 1, 1975, the restrictions of sections 406(a)(1)(A) through (D) and 406(b)(1) and (2) of the Act and the taxes imposed by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the purchase or other acquisition in a public offering (defined in section II(B)) of securities by a fiduciary, which is a bank or an affiliate thereof, on behalf of an employee benefit plan solely because the proceeds from the sale may be used by the issuer of the securities to retire or reduce indebtedness owed to such fiduciary or any affiliate thereof, provided that, if such fiduciary of the plan knows (as defined in paragraph 7) that the proceeds of this issue will be used in whole or in part by the issuer of the securities to reduce or retire indebtedness owed to such fiduciary or affiliate thereof, the transaction shall have complied with the conditions set forth in paragraph 1 through 6 below:

1. Such securities are purchased prior to the end of the first full business day after the securities have been offered to the public, except that—

a. If such securities are offered for subscription upon exercise of rights, they may be purchased on or before the fourth day preceding the day on which the rights offering terminates; or

b. If such securities are debt securities, they may be purchased on a day subsequent to the end of such first full business day, if the effective interest rates on comparable debt securities offered to the public subsequent to such first full business day and prior to the purchase are less than effective interest rate of the debt securities being purchased;

2. Such securities are offered by the issuer pursuant to an underwriting agreement under which the members of the underwriting syndicate are committed to purchase all of the securities being offered, except if the securities

a. Are purchased by others pursuant to a rights offering, or

b. Are offered pursuant to an overallotment option;

3. Effective May 9, 2022, the issuer of such securities has been in continuous operation for not less than three years, including the operations of any predecessors, unless at the time of acquisition, such securities are nonconvertible debt securities that are (i) subject to no greater than moderate credit risk and (ii) sufficiently liquid that such securities can be sold at or near their fair market value within a reasonably short period of time;

4. The amount of securities purchased or otherwise acquired on behalf of the plan by the fiduciary does not exceed three percent of the total amount of the securities being offered;

5. The consideration to be paid by any plan in purchasing or otherwise acquiring such securities does not exceed three percent of the fair market value, as of the most recent valuation date of the plan prior to such transaction, of the plan assets which are subject to the management and control of such fiduciary;

6. The total amount of securities in any single offering purchased by the fiduciary on behalf of the plan together with the total amount of such securities purchased by such fiduciary acting as a fiduciary on behalf of any other employee benefit plan subject to Title I of the Act does not exceed 10 percent of the amount of the offering;

7. As used in this section I(C), a fiduciary will be deemed to know that the proceeds of an issuance of securities will be used in whole or in part by the issuer of the securities to reduce or retire indebtedness owed to such fiduciary or an affiliate thereof, if

a. Such knowledge is actually communicated to, or

b. Information reasonably sufficient to cause belief that the proceeds will be used in whole or in part by the issuer of the securities to reduce or retire indebtedness owed to the fiduciary, or an affiliate thereof, is possessed by, the officers or employees of the fiduciary, who are authorized to be involved in carrying out the investment responsibilities, obligations, or duties of the fiduciary, or who in fact are involved in carrying out such responsibilities, obligations, or duties, regarding the purchase or other acquisition.

D. Effective January 1, 1975, the restrictions of sections 406(a)(1)(A) through (D) and 406(b)(1) and (2) of the Act and the taxes imposed by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the receipt by a party in interest of any of the proceeds resulting from the issuance, in a public offering (as defined in section II(B)), of securities merely because such proceeds are used by the issuer of the securities to retire or reduce indebtedness owed to the party in interest provided that, when such party in interest is a fiduciary acquiring such securities on behalf of a plan, such fiduciary is a bank or an affiliate thereof (as defined in section II(B)) which meets the provisions of section I(C) of this exemption.

II. General Conditions

A. The following conditions apply to the transactions described in section I(B) and (C) above:

1. The price paid by the plan fiduciary for the securities shall not be in excess of the offering price described in an effective registration statement under the Securities Act of 1933 covering such securities, or in the case of securities described in section II(B)(1)(b), in the offering circular required under applicable federal law;

2. (a) The fiduciary, on behalf of the plan, maintains for a period of six years from the date of the transaction the records necessary to enable the persons described in section II(A)(2)(b) below to determine whether the conditions of this exemption have been met, except that a prohibited transaction will not be deemed to have occurred if, due to circumstances beyond the control of the fiduciary, the records are lost or destroyed prior to the end of the six-year period;

(b) Notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in section II(A)(2)(a) above are unconditionally available at their customary location for examination during normal business hours by:

(i) Any duly authorized employee or representative of the Department of Labor or the Internal Revenue Service,

(ii) Any fiduciary of a plan who has authority to manage and control the assets of the plan, or to allocate to another fiduciary the authority to manage and control the assets of the

plan, or any duly authorized employee or representative of such fiduciary,

(iii) Any contributing employer to the plan or representative of such employer,

(iv) Any participant or beneficiary of the plan or any duly authorized employee or representative of such participant or beneficiary.

(v) None of the persons described in subparagraph (ii) through (iv) of this paragraph shall be authorized to examine any fiduciary's trade secrets or required to be kept commercial or financial information which is privileged or required to be kept confidential.

B. For the purposes of the exemptions contained in Part I,

1. The term ''public offering'' means

a. The offering of securities registered under the Securities Act of 1933 (Securities Act), or

b. The offerings of securities exempt from registration under the Securities Act which are

(i) Issued by a bank,

(ii) Issued by a motor carrier if such issuance is subject to the provisions of section 214 of the Interstate Commerce Act, as amended,

(iii) Exempt from the registration requirements of the Securities Act pursuant to a federal statute other than the Securities Act, or

(iv) The subject of a distribution and of a class which is required to be registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 781), and the issuer of which has been subject to the reporting requirements of section 13 of that Act (15 U.S.C. 78m) for a period of at least 90 days immediately preceding the sale of securities and has filed all reports required to be filed thereunder with the Securities and Exchange Commission during the preceding 12 months.

2. An ''affiliate'' of a bank means any entity directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with such bank.

For the purposes of this paragraph, the term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.

3. Each plan participating in a collective or commingled fund shall be considered to own the same proportionate undivided interest in each asset of the collective investment fund as its proportionate interest in the total assets of the collective investment fund as calculated on the most recent preceding valuation date of the fund.

4. For purposes of this exemption, the terms ''employee benefit plan'' and ''plan'' refer to an employee benefit plan described in section 3(3) of ERISA and/or a plan described in section 4975(e)(1) of the Code.

PTE 81–8

PTE 81–8 is amended to read as follows: Effective January 1,1975, the restrictions of sections 406(a)(1)(A), (B) and (D) of the Act, and the taxes imposed by reason of section 4975(c)(1)(A), (B) and (D) of the Code shall not apply to an investment of employee benefit plan assets which involves the purchase or other acquisition, holding, sale, exchange or redemption by or on behalf of an employee benefit plan of the following:

I. Banker's Acceptances

A banker's acceptance that is issued by a bank if:

A. The banker's acceptance has a stated maturity date of one year or less from the date of issue or has a maturity date of one year or less from the date of purchase on behalf of the plan;

B. Neither the bank nor any affiliate of the bank has discretionary authority or control with respect to the investment of the plan assets involved in the transaction or renders investment advice (within the meaning of 29 CFR 2510.3–21(c)) with respect to those assets;

C. The terms of the transaction are at least as favorable to the plan as those of an arm's length transaction with an unrelated party would be; and,

D. With respect to transactions occurring on or after April 23, 1981 the bank issuing the banker's acceptance is supervised by the United States or a State.

II. Commercial Paper

Commercial paper if:

A. It is not issued by an employer any of whose employees are covered by the plan or by an affiliate of such employer;

B. It has a stated maturity date of nine months or less from the date of issue, exclusive of days of grace, or is a renewal of an issue of commercial paper the maturity of which is likewise limited;

C. Neither the issuer of the commercial paper, any guarantor of the commercial paper, nor an affiliate of such issuer or guarantor, has discretionary authority or control with respect to the investment of the plan assets involved in the transaction or renders investment advice (within the meaning of 29 CFR 2510.3–21(c)) with respect to those assets;

D. With respect to an acquisition or holding of commercial paper (including an acquisition by exchange) occurring on or after May 9, 2022, at the time of acquisition, the commercial paper is (i) subject to a minimal or low amount of credit risk and (ii) sufficiently liquid that such securities can be sold at or near their fair market value within a reasonably short period of time.

III. Repurchase Agreements

A repurchase agreement (or securities or other instruments under cover of a repurchase agreement) in which the seller of the underlying securities or other instruments is a bank which is supervised by the United States or a State; a broker-dealer registered under the Securities Exchange Act of 1934; or a dealer who makes primary markets in securities of the United States government or any agency thereof or in bankers acceptances and reports daily to the Federal Reserve Bank of New York its position with respect to these obligations, if each of the following conditions are satisfied.

A. The repurchase agreement is embodied in, or is entered into pursuant to, a written agreement the terms of which are at least as favorable to the plan as an arm's length transaction with an unrelated party would be. For transactions occurring before April 23, 1981 a written confirmation of a repurchase agreement whose terms were at least as favorable to the plan as an arm's length transaction with an unrelated party will be deemed to satisfy this condition.

B. The plan receives interest at a rate no less than that which it would receive in a comparable transaction with an unrelated party.

C. The repurchase agreement has a duration of one year or less.

D. The plan receives securities, banker's acceptances, commercial paper, or certificates of deposit having a market value equal to not less than 100 percent of the purchase price paid by the plan.

E. Upon expiration of the repurchase agreement and return of the securities or other instruments to the bank, broker-dealer or dealer (seller), the seller transfers to the plan an amount equal to the purchase price plus the appropriate interest.

F. Neither the seller nor an affiliate of the seller has discretionary authority or control with respect to the investment of the plan assets involved in the transaction or renders investment advice (within the meaning of 29 CFR 2510.3–21(c)) with respect to those assets.

G. The securities, banker's acceptances, commercial paper or certificates of deposit received by the plan—

(1) Could be acquired directly by the plan in a transaction not covered by this section III without violating sections 406(a)(1)(E), 406(a)(2) or 407(a) of the Act; and,

(2) If the securities are subject to the provisions of the Securities Act of 1933, they are obligations that are not ''restricted securities'' within the meaning of Rule 144 under that act.

H. With respect to transactions occurring on or after April 23, 1981,

(1) If the market value of the underlying securities or other instruments falls below the purchase price at any time during the term of the agreement, the plan may, under the written agreement required by paragraph A of this section, require the seller to deliver, by the close of business on the following business day, additional securities or other instruments the market value of which, together with the market value of securities previously delivered or sold to the plan under the repurchase agreement, equals at least 100 percent of the purchase price paid by the plan;

(2) If the seller does not deliver additional securities or other instruments as required above, the plan may terminate the agreement, and, if upon termination or expiration of the agreement, the amount owing is not paid to the plan, the plan may sell the securities or other instruments and apply the proceeds against the obligations of the seller under the agreement, and against any expenses associated with the sale; and,

(3) The seller agrees to furnish the plan with the most recent available audited statement of its financial condition as well as its most recent available unaudited statement, agrees to furnish additional audited and unaudited statements of its financial condition as they are issued and either: (A) Agrees that each repurchase agreement transaction pursuant to the agreement shall constitute a representation by the seller that there has been no material adverse change in its financial condition since the date of the last statement furnished that has not been disclosed to the plan fiduciary with whom such written agreement is made; or (B) prior to each repurchase agreement transaction, the seller represents that, as of the time the transaction is negotiated, there has been no material adverse change in its financial condition since the date of the last statement furnished that has not been disclosed to the plan fiduciary with whom such written agreement is made.

(4) In the event of termination and sale as described in (2) above, the seller pays to the plan the amount of any remaining obligations and expenses not covered by the sale of the securities or other instruments, plus interest at a reasonable rate.

If a seller involved in a repurchase agreement covered by this exemption fails to comply with any condition of this exemption in the course of engaging in the repurchase agreement, the plan fiduciary who caused the plan to engage in such repurchase agreement shall not be deemed to have caused the plan to engage in a transaction prohibited by section 406(a)(1)(A) through (D) of the Act solely by reason of the seller's failure to comply with the conditions of the exemption.

IV. Certificates of Deposit

A certificate of deposit that is issued by a bank which is supervised by the United States or a State if neither the bank nor any affiliate of the bank has discretionary authority or control with respect to the investment of the plan assets involved in the transaction or renders investment advice (within the meaning of 29 CFR 2510.3–21(c)) with respect to those assets.

V. Securities of Banks

A security issued by a bank or an affiliate of the bank if:

A. The bank is supervised by the United States or a State;

B. The bank is a party in interest or disqualified person with respect to the plan solely by reason of the furnishing of checking account or related services to the plan;

C. The terms of the transaction are at least as favorable to the plan as those of an arm's-length transaction with an unrelated party would be; and

D. The investment is not part of an arrangement under which the bank causes a transaction to be made with or for the benefit of a party in interest or disqualified person.

For purposes of this exemption the term ''affiliate'' is defined in 29 CFR 2510.3–21(e).

For purposes of this exemption, the terms ''employee benefit plan'' and ''plan'' refer to an employee benefit plan described in ERISA section 3(3) and/or a plan described in section 4975(e)(1) of the Code.

PTE 95–60

PTE 95–60 is amended to read as follows:

Section I—Basic Exemption

The restrictions of sections 406(a) and 407(a) of the Act and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(A) through (D) of the Code shall not apply to the transactions described below if the applicable conditions set forth in section IV are met.

(a) General Exemption. Any transaction between a party in interest with respect to a plan and an insurance company general account in which the plan has an interest either as a contractholder or as the beneficial owner of a contract, or any acquisition, or holding by the general account of employer securities or employer real property, if at the time of the transaction, acquisition, or holding, the amount of reserves and liabilities for the general account contract(s) held by or on behalf of the plan, as defined by the annual statement for life insurance companies approved by the National Association of Insurance Commissioners (NAIC Annual Statement) together with the amount of the reserves and liabilities for the general account contracts held by or on behalf of any other plans maintained by the same employer (or affiliate thereof as defined in section V(a)(1)) or by the same employee organization, as defined by the NAIC Annual Statement in the general account do not exceed 10% of the total reserves and liabilities of the general account (exclusive of separate account liabilities) plus surplus as set forth in the NAIC Annual Statement filed with the state of domicile of the insurer. For purposes of determining the percentage limitation, the amount of reserves and liabilities for the general account contract(s) held by or on behalf of a plan shall be determined before reduction for credits on account of any reinsurance ceded on a coinsurance basis. Notwithstanding the foregoing, the 10% limitation is only applicable to transactions occurring on or after July 12, 1995.

(b) Excess Holdings Exemption for Employee Benefit Plans. Any acquisition or holding of qualifying employer securities or qualifying employer real property by a plan (other than through an insurance company general account), if:

(1) The acquisition or holding contravenes the restrictions of section 406(a)(1)(E), 406(a)(2), and 407(a) of the Act solely by reason of being aggregated with employer securities or employer real property held by an insurance company general account in which the plan has an interest; and

(2) The percentage limitation of paragraph (a) of this section is met.

Section II—Specific Exemptions

(a) Transactions with persons who are parties in interest to the plan solely by reason of being certain service providers

or certain affiliates of service providers. The restrictions of section 406(a)(1)(A) through (D) of the Act and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(A) through (D) of the Code shall not apply to any transaction to which the above restrictions or taxes would otherwise apply solely because a person is deemed to be a party in interest (including a fiduciary) with respect to a plan as a result of providing services to an insurance company general account in which the plan has an interest either as a contractholder or as the beneficial owner of a contract (or as a result of a relationship to such service provider described in section 3(14)(F), (G), (H) or (I) of the Act or section 4975(e)(2)(F), (G), (H) or (I) of the Code), if the applicable conditions set forth in section IV are met.

(b) Transactions involving place of public accommodation. The restrictions of sections 406(a)(1)(A) through (D), 406(b)(1) and (b)(2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the furnishing of services, facilities, and any goods incidental to such services and facilities by a place of public accommodation owned by an insurance company general account to a party in interest with respect to a plan that has an interest as a contractholder or beneficial owner of a contract in the insurance company general account, if the services, facilities, and incidental goods are furnished on a comparable basis to the general public.

Section III—Specific Exemption for Operation of Asset Pool Investment Trusts

(a) The restrictions of sections 406(a), 406(b), and 407(a) of the Act and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c) of the Code shall not apply to transactions in connection with the servicing, management, and operation of a trust in which an insurance company general account has an interest as a result of its acquisition of certificates issued by the trust, provided:

(1) The trust is described in Prohibited Transaction Exemption 83–1 (48 FR 895, January 7, 1983) or in one of the Underwriter Exemptions (as defined in section V(h) below):

(2) The conditions of either PTE 83–1 or the relevant Underwriter Exemption are met, except for the requirements that:

(A) The rights and interests evidenced by the certificates acquired by the general account are not subordinated to the rights and interests evidenced by other certificates of the same trust; and

(B) Effective May 9, 2022, the certificates acquired by the general account have the credit quality required under the relevant Underwriter Exemption at the time of such acquisition.

Notwithstanding the foregoing, the exemption shall apply to a transaction described in this section III if: (i) A plan acquired certificates in a transaction that was not prohibited, or otherwise satisfied the conditions of Part II or Part III of PTE 75–1 (40 FR 50845, October 31, 1975); (ii) the underlying assets of a trust include plan assets under section 2510.3–101(f) of the plan assets regulation with respect to the class of certificates acquired by the plan as a result of an insurance company general account investment in any class of certificates; and (iii) the requirements of this section III(a)(1) and (2) are met, except that the words ''acquired by the general account'' in section III(a)(2)(A) and (B) should be construed to mean ''acquired by the plan.''

(b) The restrictions of section 406(a)(1)(A) through (D) of the Act and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(A) through (D) of the Code shall not apply to any transaction to which the above restrictions or taxes would otherwise apply merely because a person is deemed to be a party in interest (including a fiduciary) with respect to a plan as a result of providing services to a plan (or as a result of a relationship to such service provider described in section 3(14)(F), (G), (H), or (I) of the Act or section 4975(e)(2)(F), (G), (H), or (I) of the Code) solely because of the plan's ownership of certificates issued by a trust that satisfies the requirements described in section III(a) above.

Section IV—General Conditions

(a) At the time the transaction is entered into, and at the time of any subsequent renewal thereof that requires the consent of the insurance company, the terms of the transaction are at least as favorable to the insurance company general account as the terms generally available in arm's-length transactions between unrelated parties.

(b) The transaction is not part of an agreement, arrangement, or understanding designed to benefit a party in interest.

(c) The party in interest is not the insurance company, any pooled separate account of the insurance company, or an affiliate of the insurance company.

Section V—Definitions

For the purpose of this exemption:

(a) An ''affiliate'' of a person means—

(1) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with the person;

(2) Any officer, director, employee (including, in the case of an insurance company, an insurance agent thereof, whether or not the agent is a common law employee of the insurance company), or relative of, or partner in, any such person; and

(3) Any corporation or partnership of which such person is an officer, director, partner, or employee.

(b) The term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(c) The term ''employer securities'' means ''employer securities'' as that term is defined in Act section 407(d)(1), and the term ''employer real property'' means ''employer real property'' as defined in Act section 407(d)(2).

(d) The term ''insurance company'' means an insurance company authorized to do business under the laws of one or more states.

(e) The term ''insurance company general account'' means all of the assets of an insurance company that are not legally segregated and allocated to separate accounts under applicable state law.

(f) The term ''party in interest'' means a person described in Act section 3(14) and includes a ''disqualified person'' as defined in Code section 4975(e)(2).

(g) The term ''relative'' means a ''relative'' as that term is defined in section 3(15) of the Act (or a ''member of the family'' as that term is defined in section 4975(e)(6) of the Code), or a brother, a sister, or a spouse of a brother or sister.

(h) The term ''Underwriter Exemption'' refers to the following individual Prohibited Transaction Exemptions (PTEs)—

PTE 89–88, 54 FR 42582 (October 17, 1989); PTE 89–89, 54 FR 42569 (October 17, 1989); PTE 89–90, 54 FR 42597 (October 17, 1989); PTE 90–22, 55 FR 20542 (May 17, 1990); PTE 90–23, 55 FR 20545 (May 17, 1990); PTE 90–24, 55 FR 20548 (May 17, 1990); PTE 90–28, 55 FR 21456 (May 24, 1990); PTE 90–29, 55 FR 21459 (May 24, 1990); PTE 90–30, 55 FR 21461 (May 24, 1990); PTE 90–31, 55 FR 23144 (June 6, 1990); PTE 90–32, 55 FR 23147 (June 6, 1990); PTE 90–33, 55 FR 23151 (June 6, 1990); PTE 90–36, 55 FR 25903 (June 25, 1990); PTE 90–39, 55 FR 27713 (July 5, 1990); PTE 90–59, 55 FR

36724 (September 6, 1990); PTE 90–83, 55 FR 50250 (December 5, 1990); PTE 90–84, 55 FR 50252 (December 5, 1990); PTE 90–88, 55 FR 52899 (December 24, 1990); PTE 91–14, 55 FR 48178 (February 22, 1991); PTE 91–22, 56 FR 03277 (April 18, 1991); PTE 91–23, 56 FR 15936 (April 18, 1991); PTE 91–30, 56 FR 22452 (May 15, 1991); PTE 91–39, 56 FR 33473 (July 22, 1991); PTE 91–62, 56 FR 51406 (October 11, 1991); PTE 93–6, 58 FR 07255 (February 5, 1993); PTE 93–31, 58 FR 28620 (May 5, 1993); PTE 93–32, 58 FR 28623 (May 14, 1993); PTE 94–29, 59 FR 14675 (March 29, 1994); PTE 94–64, 59 FR 42312 (August 17, 1994); PTE 94–70, 59 FR 50014 (September 30, 1994); PTE 94–73, 59 FR 51213 (October 7, 1994); PTE 94–84, 59 FR 65400 (December 19, 1994); and any other exemption providing similar relief to the extent that the Department expressly determines, as part of the proceeding to grant such exemption, to include the exemption within this definition.

(i) For purposes of this exemption, the time as of which any transaction, acquisition, or holding occurs is the date upon which the transaction is entered into, the acquisition is made, or the holding commences. In addition, in the case of a transaction that is continuing, the transaction shall be deemed to occur until it is terminated. If any transaction is entered into, or acquisition made, on or after January 1, 1975, or any renewal that requires the consent of the insurance company occurs on or after January 1, 1975, and the requirements of this exemption are satisfied at the time the transaction is entered into or renewed, respectively, or at the time the acquisition is made, the requirements will continue to be satisfied thereafter with respect to the transaction or acquisition, and the exemption shall apply thereafter to the continued holding of the securities or property so acquired. This exemption also applies to any transaction or acquisition entered into or renewed, or holding commencing prior to January 1, 1975, if either the requirements of this exemption would have been satisfied on the date the transaction was entered into or acquisition was made (or on which the holding commenced), or the requirements would have been satisfied on January 1, 1975, if the transaction had been entered into, the acquisition was made, or the holding had commenced, on January 1, 1975. Notwithstanding the foregoing, this exemption shall cease to apply to a transaction or holding exempt by virtue of section I(a) or section I(b) at such time as the interest of the plan in the insurance company general account exceeds the percentage interest limitation contained in section I(a), unless no portion of such excess results from an increase in the assets allocated to the insurance company general account by the plan. For this purpose, assets allocated do not include the reinvestment of general account earnings. Nothing in this paragraph shall be construed as exempting a transaction entered into by an insurance company general account that becomes a transaction described in section 406 of the Act or section 4975 of the Code while the transaction is continuing, unless the conditions of the exemption were met either at the time the transaction was entered into or at the time the transaction would have become prohibited but for this exemption.

(j) The terms ''employee benefit plan'' and ''plan'' refer to an employee benefit plan described in section 3(3) of ERISA and/or a plan described in section 4975(e)(1) of the Code.

Section VI—Effective Date

The effective date of this exemption is January 1, 1975.

PTE 97–41

PTE 97–41 is amended to read as follows:

Section I. Retroactive Exemption for the Purchase of Fund Shares With Assets Transferred In-Kind From a CIF

For the period from October 1, 1988 to August 8, 1997, the restrictions of sections 406(a) and 406(b)(1) and (b)(2) of the Act and the taxes imposed by section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E), shall not apply to the purchase by an employee benefit plan (the Client Plan) of shares of one or more open-end management investment companies (the Fund or Funds) registered under the Investment Company Act of 1940, in exchange for assets of the Client Plan transferred in-kind to the Fund from a collective investment fund (the CIF) maintained by a bank (the Bank) or a plan adviser (the Plan Adviser), where the Bank or Plan Adviser is the investment adviser to the Fund and also a fiduciary of the Client Plan. The transfer and purchase must be in connection with a complete withdrawal of the Client Plan's assets from the CIF, and the following conditions must be met:

(a) No sales commissions or other fees are paid by the Client Plan in connection with the purchase of Fund shares.

(b) All transferred assets are securities for which market quotations are readily available, or cash.

(c) The transferred assets constitute the Client Plan's pro rata portion of all assets that were held by the CIF immediately prior to the transfer.

(d) The Client Plan receives Fund shares that have a total net asset value equal to the value of the Client Plan's transferred assets on the date of the transfer, as determined with respect to securities, in a single valuation for each asset, with all valuations performed in the same manner, at the close of the same business day, in accordance with Securities and Exchange Commission Rule 17a–7 (using sources independent of the Bank or Plan Adviser and the Fund) and the procedures established by the Funds pursuant to Rule 17a–7.

(e) An independent fiduciary with respect to the Client Plan (the Independent Fiduciary) receives advance written notice of an in-kind transfer and purchase of assets and full written disclosure of information concerning the Fund which includes the following:

(1) A current prospectus for each Fund to which the CIF assets may be transferred;

(2) A statement describing the fees to be charged to, or paid by, a Client Plan and the Funds to the Bank or Plan Adviser, including the nature and extent of any differential between the rates of the fees;

(3) A statement of the reasons why the Bank or Plan Adviser may consider the transfer and purchase to be appropriate for the Client Plan; and

(4) A statement of whether there are any limitations on the Bank or Plan Adviser with respect to which plan assets may be invested in shares of the Funds, and, if so, the nature of such limitations.

(f) On the basis of the foregoing information, the Independent Fiduciary gives prior approval, in writing, for each purchase of Fund shares in exchange for the Client Plan's assets transferred from the CIF, consistent with the responsibilities, obligations and duties imposed on fiduciaries by Part 4 of Title I of the Act.

(g) The Bank or Plan Adviser sends by regular mail or personal delivery to the Independent Fiduciary of each Client Plan that purchases Fund shares in connection with the in-kind transfer, no later than 105 days after completion of each purchase, a written confirmation of the transaction containing—

(1) The number of CIF units held by the Client Plan immediately before the in-kind transfer, the related per unit

value and the total dollar amount of such CIF units; and

(2) The number of shares in the Funds that are held by the Client Plan immediately following the purchase, the related per share net asset value and the total dollar amount of such shares.

(h) As to each Client Plan, the combined total of all fees received by the Bank or Plan Adviser for the provision of services to the Client Plan, and in connection with the provision of services to a Fund in which a Client Plan holds shares purchased in connection with the in-kind transfer, is not in excess of ''reasonable compensation'' within the meaning of section 408(b)(2) of the Act.

(i) All dealings in connection with the in-kind transfer and purchase between the Client Plan and a Fund are on a basis no less favorable to the Client Plan than dealings between the Fund and other shareholders.

Section II. Prospective Exemption for the Purchase of Fund Shares With Assets Transferred In-Kind From a CIF

Effective after August 8, 1997, the restrictions of sections 406(a) and 406(b)(1) and (b)(2) of the Act and the taxes imposed by section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the purchase by an employee benefit plan (the Client Plan) of shares of one or more open-end management investment companies (the Fund or Funds) registered under the Investment Company Act of 1940, in exchange for assets of the Client Plan transferred in-kind to the Fund from a collective investment fund (the CIF) maintained by a bank (the Bank) or a plan adviser (the Plan Adviser), where the Bank or Plan Adviser is the investment adviser to the Fund and also a fiduciary of the Client Plan. The transfer and purchase must be in connection with a complete withdrawal of the Client Plan's assets from the CIF, and the following conditions must be met:

(a) No sales commissions or other fees are paid by the Client Plan in connection with the purchase of Fund shares.

(b) All transferred assets are securities for which market quotations are readily available, or cash.

(c) The transferred assets constitute the Client Plan's pro rata portion of all assets that were held by the CIF immediately prior to the transfer. Notwithstanding the foregoing, the allocation of fixed-income securities held by a CIF among Client Plans on the basis of each Client Plan's pro rata share of the aggregate value of such securities will not fail to meet the requirements of this subsection if:

(1) The aggregate value of such securities does not exceed one (1) percent of the total value of the assets held by the CIF immediately prior to the transfer; and

(2) Effective May 9, 2022, such securities have the same coupon rate and maturity, and at the time of the transfer, the same credit quality.

(d) The Client Plan receives Fund shares that have a total net asset value equal to the value of the Client Plan's transferred assets on the date of the transfer, as determined with respect to securities, in a single valuation for each asset, with all valuations performed in the same manner, at the close of the same business day, in accordance with Securities and Exchange Commission Rule 17a–7 (using sources independent of the Bank or Plan Adviser and the Fund) and the procedures established by the Funds pursuant to Rule 17a–7.

(e) An independent fiduciary with respect to the Client Plan (the Independent Fiduciary) receives advance written notice of the in-kind transfer and purchase of assets and full written disclosure of information concerning the Funds which includes the following:

(1) A current prospectus for each Fund to which the CIF assets may be transferred;

(2) A statement describing the fees to be charged to, or paid by, a Client Plan and the Funds to the Bank or Plan Adviser, including the nature and extent of any differential between the rates of the fees paid by the Fund and the rates of the fees paid by the Client Plan in connection with the Client Plan's investment in the CIF;

(3) A statement of the reasons why the Bank or Plan Adviser may consider the transfer and purchase to be appropriate for the Client Plan;

(4) A statement of whether there are any limitations on the Bank or Plan Adviser with respect to which plan assets may be invested in shares of the Funds, and, if so, the nature of such limitations;

(5) The identity of all securities that will be valued in accordance with Rule 17a–7(b)(4) and allocated on the basis of the Client Plan's pro rata portion under section II(c); and

(6) The identity of any fixed-income securities that will be allocated on the basis of each Client Plan's pro rata share of the aggregate value of such securities pursuant to section II(c).

(f) On the basis of the foregoing information, the Independent Fiduciary gives prior approval, in writing, for each purchase of Fund shares in exchange for the Client Plan's assets transferred from the CIF, consistent with the responsibilities, obligations and duties imposed on fiduciaries by Part 4 of Title I of the Act. In addition, the Independent Fiduciary must give prior approval, in writing, for the receipt of confirmation statements described below in paragraph (g)(1) and (g)(2) by facsimile or electronic mail if the Independent Fiduciary elects to receive such statements in that form.

(g) The Bank or Plan Adviser sends by regular mail or personal delivery or, if applicable, by facsimile or electronic mail to the Independent Fiduciary of each Client Plan that purchases Fund shares in connection with the in-kind transfer, the following information:

(1) No later than 30 days after the completion of the purchase, a written confirmation which contains—

(i) The identity of each transferred security that was valued for purposes of the purchase of Fund shares in accordance with Rule 17a–7(b)(4);

(ii) The current market price, as of the date of the in-kind transfer, of each such security involved in the purchase of Fund shares; and

(iii) The identity of each pricing service or market-maker consulted in determining the current market price of such securities.

(2) No later than 105 days after the completion of each purchase, a written confirmation which contains—

(i) The number of CIF units held by the Client Plan immediately before the in-kind transfer, the related per unit value and the total dollar amount of such CIF units; and

(ii) The number of shares in the Funds that are held by the Client Plan immediately following the purchase, the related per share net asset value and the total dollar amount of such shares.

(h) With respect to each of the Funds in which the Client Plan continues to hold shares acquired in connection with the in-kind transfer, the Bank or Plan Adviser provides the Independent Fiduciary of the Client Plan with—

(1) A copy of an updated prospectus of such Fund, at least annually; and

(2) Upon request of the Independent Fiduciary, a report or statement (which may take the form of the most recent financial report, the current Statement of Additional Information, or some other written statement) containing a description of all fees paid by the Fund to the Bank or Plan Adviser.

(i) As to each Client Plan, the combined total of all fees received by the Bank or Plan Adviser for the provision of services to the Client Plan, and in connection with the provision of services to a Fund in which a Client

Plan holds shares acquired in connection with the in-kind transfer, is not in excess of ''reasonable compensation'' within the meaning of section 408(b)(2) of the Act.

(j) All dealings in connection with the in-kind transfer and purchase between the Client Plan and a Fund are on a basis no less favorable to the Client Plan than dealings between the Fund and other shareholders.

Section III. Availability of Prohibited Transaction Exemption (PTE) 77–4

Any purchase of Fund shares that complies with the conditions of either Section I or Section II of this class exemption shall be treated as a ''purchase or sale'' of shares of an open-end investment company for purposes of PTE 77–4 and shall be deemed to have satisfied paragraphs (a), (d) and (e) of section II of that exemption. 42 FR 18732 (April 8, 1977).

Section IV. Definitions

For purposes of this exemption:

(a) The term ''Bank'' means a bank or trust company, and any affiliate thereof [as defined below in paragraph (b)(1)], which is supervised by a state or federal agency.

(b) An ''affiliate'' of a person includes—

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person.

(2) Any officer, director, employee or relative of such person, or partner in any such person; and

(3) Any corporation or partnership of which such person is an officer, director, partner or employee.

(c) The term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(d) The term ''collective investment fund'' or ''CIF'' means a common or collective trust fund or pooled investment fund maintained by a ''Bank'' as defined in paragraph (a) of this Section IV or by a ''Plan Adviser'' as defined in paragraph (m) of this Section IV for the collective investment of the assets attributable to two or more plans maintained by unrelated employers.

(e) The term ''Fund'' or ''Funds'' means any open-end management investment company or companies registered under the 1940 Act for which the Bank or Plan Adviser serves as an investment adviser, and may also serve as a custodian, shareholder servicing agent, transfer agent or provide some other secondary service (as defined below in paragraph (i) of this section).

(f) The term ''net asset value'' means the amount calculated by dividing the value of all securities, determined by a method as set forth in a Fund's prospectus and Statement of Additional Information, and other assets belonging to each of the portfolios in such Fund, less the liabilities chargeable to each portfolio, by the number of outstanding shares.

(g) The term ''relative'' means a ''relative'' as that term is defined in section 3(15) of the Act (or a ''member of the family'' as that term is defined in section 4975(e)(6) of the Code), or a brother, a sister, or a spouse of a brother or a sister.

(h) The term ''Independent Fiduciary'' means a fiduciary of a Client Plan who is independent of and unrelated to the Bank or Plan Adviser. For purposes of this exemption, the Independent Fiduciary will not be deemed to be independent of and unrelated to the Bank or Plan Adviser if:

(1) Such fiduciary directly or indirectly controls, is controlled by, or is under common control with the Bank or Plan Adviser;

(2) Such fiduciary, or any officer, director, partner, employee, or relative of such fiduciary, is an officer, director, partner, employee of the Bank or Plan Adviser (or is a relative of such persons);

(3) Such fiduciary, directly or indirectly receives any compensation or other consideration for his or her own personal account in connection with any transaction described in this exemption.

If an officer, director, partner, employee of the Bank or Plan Adviser (or relative of such persons), is a director of such Independent Fiduciary, and if he or she abstains from participation in (i) the choice of the Client Plan's investment adviser, and (ii) the approval of any purchase or sale between the Client Plan and the Funds, as well as any transaction described in Sections I and II above, then paragraph (h)(2) of this Section IV shall not apply.

(i) The term ''secondary service'' means a service provided by a Bank or Plan Adviser to a Fund other than investment management, investment advisory or similar services.

(j) The term ''fixed-income security'' means any interest-bearing or discounted government or corporate security with a face amount of $1,000 or more that obligates the issues to pay the holder a specified sum of money, at specific intervals, and to repay the principal amount of the loan at maturity.

(k) The term ''Client Plan'' means a pension plan described in 29 CFR 2510.3–2, a welfare benefit plan described in 29 CFR 2510.3–1, and a plan described in section 4975(e)(1) of the Code, but does not include an employee benefit plan established or maintained by the Bank or a Plan Adviser for its own employees.

(l) The term ''security'' shall have the same meaning as defined in section 2(36) of the 1940 Act, as amended, 15 U.S.C. 80a–2(36) (1996).

(m) The term ''Plan Adviser'' means an investment adviser registered under the Investment Advisers Act of 1940, and any ''affiliate'' thereof [as defined above in paragraph (b)(1)].

(n) The term ''business day'' means a banking day as defined by federal or state banking regulations.

(o) The term ''unrelated employers'' means persons which are not, directly or indirectly, affiliates, as defined above in paragraph (b)(1).

(p) The term ''personal delivery'' means delivery of the information described in sections I(g) and II(g) above to an individual or individuals designated by the Client Plan to act on behalf of the Independent Fiduciary.

PTE 2006–16

PTE 2006–16 is amended to read as follows:

I. Transactions

(a) Effective January 2, 2007, the restrictions of section 406(a)(1)(A) through (D) of ERISA and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(A) through (D) of the Code shall not apply to the lending of securities that are assets of an employee benefit plan to a ''U.S. Broker-Dealer'' or to a ''U.S. Bank,'' provided that the conditions set forth in section II below are met.

(b) Effective January 2, 2007, the restrictions of section 406(a)(1)(A) through (D) of ERISA and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(A) through (D) of the Code shall not apply to the lending of securities that are assets of an employee benefit plan to a ''Foreign Broker-Dealer'' or ''Foreign Bank'', provided that the conditions set forth in sections II and III below are met.

(c) Effective January 2, 2007, the restrictions of section 406(b)(1) of ERISA and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(E) of the Code shall not apply to the payment to a fiduciary (the Lending Fiduciary) of compensation for services rendered in

connection with loans of plan assets that are securities, provided that the conditions set forth in section IV below are met.

II. General Conditions for Transactions Described in Sections I(a) and I(b)

(a) Neither the borrower nor any affiliate of the borrower has or exercises discretionary authority or control with respect to the investment of the plan assets involved in the transaction, or renders investment advice (within the meaning of 29 CFR 2510.3–21(c)) with respect to those assets;

(b) The plan receives from the borrower by the close of the Lending Fiduciary's business on the day in which the securities lent are delivered to the borrower, (1) ''U.S. Collateral'' having, as of the close of business on the preceding business day, a market value or, in the case of bank letters of credit, a stated amount, equal to not less than 100 percent of the then market value of the securities lent; or

(2) ''Foreign Collateral'' having as of the close of business on the preceding business day, a market value or, in the case of bank letters of credit, a stated amount, equal to not less than:

(i) 102 percent of the then market value of the securities lent as valued on a recognized securities exchange (as defined in section V(j)) or an automated trading system (as defined in section V(k)) on which the securities are primarily traded if the collateral posted is denominated in the same currency as the securities lent, or

(ii) 105 percent of the then market value of the securities lent as valued on a recognized securities exchange (as defined in section V(j)) or an automated trading system (as defined in V(k)) on which the securities are primarily traded if the collateral posted is denominated in a different currency than the securities lent.

Notwithstanding the foregoing, if the Lending Fiduciary is a U.S. Bank or U.S. Broker-Dealer, and such Lending Fiduciary indemnifies the plan with respect to the difference, if any, between the replacement cost of the borrowed securities and the market value of the collateral on the date of a borrower default, the plan receives from the borrower by the close of the Lending Fiduciary's business on the day in which the securities lent are delivered to the borrower, ''Foreign Collateral'' having as of the close of business on the preceding business day, a market value or, in the case of bank letters of credit, a stated amount, equal to not less than:

(iii) 100 percent of the then market value of the securities lent as valued on a recognized securities exchange (as defined in section V(j)) or an automated trading system (as defined in section V(k)) on which the securities are primarily traded if the collateral posted is denominated in the same currency as the securities lent; or

(iv) 101 percent of the then market value of the securities lent as valued on a recognized securities exchange (as defined in section V(j)) or an automated trading system (as defined in V(k)) on which the securities are primarily traded if the collateral posted is denominated in a different currency than the securities lent and such currency is denominated in Euros, British pounds, Japanese yen, Swiss francs or Canadian dollars; or

(v) 105 percent of the then market value of the securities lent as valued on a recognized securities exchange (as defined in section V(j)) or an automated trading system (as defined in V(k)) if the collateral posted is denominated in a different currency than the securities lent and such currency is other than those specified above.

(c)(1) If the borrower is a U.S. Bank or U.S. Broker-Dealer, the Plan receives such U.S. Collateral or Foreign Collateral from the borrower by the close of the Lending Fiduciary's business on the day in which the securities are delivered to the borrower. Such collateral is received by the plan either by physical delivery, wire transfer or by book entry in a securities depository located in the United States. or,

(2) If the borrower is a Foreign Bank or Foreign Broker-Dealer, the plan receives U.S. Collateral or Foreign Collateral from the borrower by the close of the Lending Fiduciary's business on the day in which the securities are delivered to the borrower. Such collateral is received by the plan either by physical delivery, wire transfer or by book entry in a securities depository located in the United States or held on behalf of the plan at an Eligible Securities Depository. The indicia of ownership of such collateral shall be maintained in accordance with section 404(b) of ERISA and 29 CFR 2550.404b–1.

(d) Prior to making of any such loan, the borrower shall have furnished the Lending Fiduciary with:

(1) The most recent available audited statement of the borrower's financial condition, as audited by a United States certified public accounting firm or in the case of a borrower that is a Foreign Broker-Dealer or Foreign Bank, a firm which is eligible or authorized to issue audited financial statements in conformity with accounting principles generally accepted in the primary jurisdiction that governs the borrowing Foreign Broker-Dealer or Foreign Bank;

(2) The most recent available unaudited statement of its financial condition (if the unaudited statement is more recent than such audited financial statement); and

(3) A representation that, at the time the loan is negotiated, there has been no material adverse change in its financial condition since the date of the most recent financial statement furnished to the plan that has not been disclosed to the Lending Fiduciary. Such representations may be made by the borrower's agreement that each loan shall constitute a representation by the borrower that there has been no such material adverse change.

(e) The loan is made pursuant to a written loan agreement, the terms of which are at least as favorable to the plan as an arm's-length transaction with an unrelated party would be. Such loan agreement states that the plan has a continuing security interest in, title to, or the rights of a secured creditor with respect to the collateral. Such agreement may be in the form of a master agreement covering a series of securities lending transactions.

(f) In return for lending securities, the plan:

(1) Receives a reasonable fee (in connection with the securities lending transaction), and/or

(2) Has the opportunity to derive compensation through the investment of the currency collateral. Where the plan has that opportunity, the plan may pay a loan rebate or similar fee to the borrower, if such fee is not greater than the plan would pay in a comparable transaction with an unrelated party.

(g) All fees and other consideration received by the plan in connection with the loan of securities are reasonable. The identity of the currency in which the payment of fees and rebates will be made shall be disclosed to the plan either in the written loan agreement or the loan confirmation as agreed to by the borrower and the plan (or Lending Fiduciary) prior to the making of the loan.

(h) The plan receives the equivalent of all distributions made to holders of the borrowed securities during the term of the loan including, but not limited to, dividends, interest payments, shares of stock as a result of stock splits and rights to purchase additional securities;

(i) If the market value of the collateral at the close of trading on a business day is less than the applicable percentage of the market value of the borrowed securities at the close of trading on that day (as described in section II(b) of this exemption), then the borrower shall

deliver, by the close of business on the following business day, an additional amount of U.S. Collateral or Foreign Collateral the market value of which, together with the market value of all previously delivered collateral, equals at least the applicable percentage of the market value of all the borrowed securities as of such preceding day.

Notwithstanding the foregoing, part of the U.S. Collateral or Foreign Collateral may be returned to the borrower if the market value of the collateral exceeds the applicable percentage (described in section II(b) of the exemption) of the market value of the borrowed securities, as long as the market value of the remaining U.S. Collateral or Foreign Collateral equals at least the applicable percentage of the market value of the borrowed securities;

(j) The loan may be terminated by the plan at any time, whereupon the borrower shall deliver certificates for securities identical to the borrowed securities (or the equivalent thereof in the event of reorganization, recapitalization or merger of the issuer of the borrowed securities) to the plan within the lesser of:

(1) The customary delivery period for such securities,

(2) Five business days, or

(3) The time negotiated for such delivery by the plan and the borrower.

(k) In the event that the loan is terminated, and the borrower fails to return the borrowed securities or the equivalent thereof within the applicable time described in section II(j) above, the plan may, under the terms of the loan agreement:

(1) Purchase securities identical to the borrowed securities (or their equivalent as described above) and may apply the collateral to the payment of the purchase price, any other obligations of the borrower under the agreement, and any expenses associated with the sale and/or purchase, and

(2) The borrower is obligated, under the terms of the loan agreement, to pay, and does pay to the plan the amount of any remaining obligations and expenses not covered by the collateral, including reasonable attorney's fees incurred by the plan for legal action arising out of default on the loans, plus interest at a reasonable rate.

Notwithstanding the foregoing, the borrower may, in the event the borrower fails to return borrowed securities as described above, replace collateral, other than U.S. currency, with an amount of U.S. currency that is not less than the then current market value of the collateral, provided such replacement is approved by the Lending Fiduciary.

(l) If the borrower fails to comply with any provision of a loan agreement which requires compliance with this exemption, the plan fiduciary who caused the plan to engage in such transaction shall not be deemed to have caused the plan to engage in a transaction prohibited by section 406(a)(1)(A) through (D) of ERISA solely by reason of the borrower's failure to comply with the conditions of the exemption.

III. Specific Conditions for Transactions Described in Section I(b)

(a) The Lending Fiduciary maintains the written documentation for the loan agreement at a site within the jurisdiction of the courts of the United States.

(b) Prior to entering into a transaction involving a Foreign Broker-Dealer that is described in section V(c)(1) or a Foreign Bank that is described in section V(d)(1) either:

(1) The Foreign Broker-Dealer or Foreign Bank agrees to submit to the jurisdiction of the United States; agrees to appoint an agent for service of process in the United States, which may be an affiliate (the Process Agent); consents to service of process on the Process Agent; and agrees that any enforcement by a plan of its rights under the securities lending agreement will, at the option of the plan, occur exclusively in the United States courts; or

(2) The Lending Fiduciary, if a U.S. Bank or U.S. Broker-Dealer, agrees to indemnify the plan with respect to the difference, if any, between the replacement cost of the borrowed securities and the market value of the collateral on the date of a borrower default plus interest and any transaction costs incurred (including attorney's fees of such plan arising out of the default on the loans or the failure to indemnify properly under this provision) which the plan may incur or suffer directly arising out of a borrower default by the Foreign Broker-Dealer or Foreign Bank.

(c) In the case of a securities lending transaction involving a Foreign Broker-Dealer that is described in section V(c)(2) or a Foreign Bank that is described in section V(d)(2), the Lending Fiduciary must be a U.S. Bank or U.S. Broker-Dealer, and prior to entering into the loan transaction, such fiduciary must agree to indemnify the plan with respect to the difference, if any, between the replacement cost of the borrowed securities and the market value of the collateral on the date of a borrower default plus interest and any transaction costs incurred (including attorney's fees of such plan arising out of the default on the loans or the failure to indemnify properly under this provision) which the plan may incur or suffer directly arising out of a borrower default by the Foreign Broker-Dealer or Foreign Bank.

IV. Specific Conditions for Transactions Described in Section I(c)

(a) The loan of securities is not prohibited by section 406(a) of ERISA or otherwise satisfies the conditions of this exemption.

(b) The Lending Fiduciary is authorized to engage in securities lending transactions on behalf of the plan.

(c) The compensation is reasonable and is paid in accordance with the terms of a written instrument, which may be in the form of a master agreement covering a series of securities lending transactions.

(d) Except as otherwise provided in section IV(f), the arrangement under which the compensation is paid:

(1) Is subject to the prior written authorization of a plan fiduciary (the ''authorizing fiduciary''), who is (other than in the case of a plan covering only employees of the Lending Fiduciary or any affiliates of such fiduciary) independent of the Lending Fiduciary and of any affiliate thereof, and

(2) May be terminated by the authorizing fiduciary within:

(A) The time negotiated for such notice of termination by the plan and the Lending Fiduciary, or

(B) five business days, whichever is less, in either case without penalty to the plan.

(e) No such authorization is made or renewed unless the Lending Fiduciary shall have furnished the authorizing fiduciary with any reasonably available information which the Lending Fiduciary reasonably believes to be necessary to determine whether such authorization should be made or renewed, and any other reasonably available information regarding the matter that the authorizing fiduciary may reasonably request.

(f) (Special Rule for Commingled Investment Funds) In the case of a pooled separate account maintained by an insurance company qualified to do business in a State or a common or collective trust fund maintained by a bank or trust company supervised by a State or Federal agency, the requirements of section IV(d) of this exemption shall not apply, provided that:

(1) The information described in section IV(e) (including information with respect to any material change in the arrangement) shall be furnished by the Lending Fiduciary to the authorizing

fiduciary described in section IV(d) with respect to each plan whose assets are invested in the account or fund, not less than 30 days prior to implementation of the arrangement or material change thereto, and, where requested, upon the reasonable request of the authorizing fiduciary;

(2) In the event any such authorizing fiduciary submits a notice in writing to the Lending Fiduciary objecting to the implementation of, material change in, or continuation of the arrangement, the plan on whose behalf the objection was tendered is given the opportunity to terminate its investment in the account or fund, without penalty to the plan, within such time as may be necessary to effect such withdrawal in an orderly manner that is equitable to all withdrawing plans and to the non-withdrawing plans. In the case of a plan that elects to withdraw pursuant to the foregoing, such withdrawal shall be effected prior to the implementation of, or material change in, the arrangement; but an existing arrangement need not be discontinued by reason of a plan electing to withdraw; and

(3) In the case of a plan whose assets are proposed to be invested in the account or fund subsequent to the implementation of the compensation arrangement and which has not authorized the arrangement in the manner described in sections IV(f)(1) and IV(f)(2), the plan's investment in the account or fund shall be authorized in the manner described in section IV(d)(1).

V. Definitions

For purposes of this exemption:

(a) The term ''U.S. Broker-Dealer'' means a broker-dealer registered under the Securities Exchange Act of 1934 (the 1934 Act or the Exchange Act) or exempted from registration under section 15(a)(1) of the 1934 Act as a dealer in exempted government securities (as defined in section 3(a)(12) of the 1934 Act).

(b) The term ''U.S. Bank'' means a bank as defined in section 202(a)(2) of the Investment Advisers Act.

(c) The term ''Foreign Broker-Dealer'' means a broker-dealer that has, as of the last day of its most recent fiscal year, equity capital that is equivalent of no less than $200 million and is: (1)(i) Registered and regulated under the laws of the Financial Services Authority in the United Kingdom, or

(ii)(a) registered and regulated by a securities commission of a Province of Canada that is a member of the Canadian Securities Administration, and (b) is subject to the oversight of a Canadian self-regulatory authority; or

(2) registered and regulated under the relevant securities laws of a governmental entity of a country other than the United States, and such securities laws and regulation were applicable to a broker-dealer that received: (i) An individual exemption, granted by the Department under section 408(a) of ERISA, involving the loan of securities by a plan to a broker-dealer or (ii) a final authorization by the Department to engage in an otherwise prohibited transaction pursuant to PTE 96–62, as amended, involving the loan of securities by a plan to a broker-dealer.

(d) The term ''Foreign Bank'' means an institution that has substantially similar powers to a bank as defined in section 202(a)(2) of the Investment Advisers Act, has as of the last day of its most recent fiscal year, equity capital which is equivalent of no less than $200 million, and is subject to:

(1) Regulation by the Financial Services Authority in the United Kingdom or the Office of the Superintendent of Financial Institutions in Canada, or

(2) regulation by the relevant governmental banking agency(ies) of a country other than the United States, and the regulation and oversight of these banking agencies were applicable to a bank that received: (a) An individual exemption, granted by the Department under section 408(a) of ERISA, involving the loan of securities by a plan to a bank or (b) a final authorization by the Department to engage in an otherwise prohibited transaction pursuant to PTE 96–62, as amended, involving the loan of securities by a plan to a bank.

(e) The term ''U.S. Collateral'' means:

(1) U.S. currency;

(2) ''government securities'' as defined in section 3(a)(42)(A) and (B) of the Exchange Act;

(3) ''government securities'' as defined in section 3(a)(42)(C) of the Exchange Act issued or guaranteed as to principal or interest by the following corporations: The Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Student Loan Marketing Association and the Financing Corporation;

(4) mortgage-backed securities meeting the definition of a ''mortgage related security'' set forth in section 3(a)(41) of the Exchange Act;

(5) negotiable certificates of deposit and bankers acceptances issued by a ''bank'' as that term is defined in section 3(a)(6) of the Exchange Act, and which are payable in the United States and deemed to have a ''ready market'' as that term is defined in 17 CFR 240.15c3–1; or

(6) irrevocable letters of credit issued by a U.S. Bank other than the borrower or an affiliate thereof, or any combination, thereof.

(f) Effective May 9, 2022, the term ''Foreign Collateral'' means:

(1) Securities issued by or guaranteed as to principal and interest by the following Multilateral Development Banks—the obligations of which are backed by the participating countries, including the United States: The International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, the European Bank for Reconstruction and Development and the International Finance Corporation;

(2) foreign sovereign debt securities that are (i) subject to a minimal amount of credit risk, and (ii) sufficiently liquid that such securities can be sold at or near their fair market value in the ordinary course of business within seven calendar days;

(3) the British pound, the Canadian dollar, the Swiss franc, the Japanese yen or the Euro;

(4) irrevocable letters of credit issued by a Foreign Bank, other than the borrower or an affiliate thereof, provided that, at the time the letters of credit are issued, the Foreign Bank's ability to honor its commitments thereunder is subject to no greater than moderate credit risk; or

(5) any type of collateral described in Rule 15c3–3 of the Exchange Act as amended from time to time provided that the lending fiduciary is a U.S. Bank or U.S. Broker-Dealer and such fiduciary indemnifies the plan with respect to the difference, if any, between the replacement cost of the borrowed securities and the market value of the collateral on the date of a borrower default plus interest and any transaction costs which a plan may incur or suffer directly arising out of a borrower default. Notwithstanding the foregoing, collateral described in any of the categories enumerated in section V(e) will be considered U.S. Collateral for purposes of the exemption.

(g) The term ''affiliate'' of another person means:

(1) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with such person;

(2) Any officer, director, partner, employee, or relative (as defined in section 3(15) of ERISA) of such other person; and

(3) Any corporation or partnership of which such other person is an officer, director, partner or employee.

(h) The term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(i) The term ''Eligible Securities Depository'' means an eligible securities depository as that term is defined under Rule 17f–7 of the Investment Company Act of 1940 [15 U.S.C. 80a], as such definition may be amended from time to time.

(j) The term ''recognized securities exchange'' means a U.S. securities exchange that is registered as a ''national securities exchange'' under section 6 of the Exchange Act of 1934 (15 U.S.C. 78f) or a designated offshore securities market as defined in Regulation S of the Securities Act of 1933 [17 CFR part 230.902(B)], as such definition may be amended from time to time, which performs with respect to securities, the functions commonly performed by a stock exchange within the meaning of the definitions under the applicable securities laws (*e.g.,* 17 CFR part 240.3b–16).

(k) The term ''automated trading system'' means an electronic trading system that functions in a manner intended to simulate a securities exchange by electronically matching orders on an agency basis from multiple buyers and sellers such as an ''alternative trading system'' within the meaning of SEC's Reg. ATS [17 CFR part 242.300] as such definition may be amended from time to time, or an ''automated quotation system'' as described in section 3(a)(51)(A)(ii) of the Securities and Exchange Act of 1934 [15 U.S.C. 78c(a)(51)(A)(ii)].

(l) The term ''lending of securities'' or ''loan of securities'' shall include securities loans that are structured as repurchase agreements provided, that all terms of the exemption are otherwise met.

VI. Effective Dates

(a) This exemption is effective on January 2, 2007.

(b) PTEs 81–6 and 82–63 are revoked effective January 2, 2007.

Signed at Washington, DC, this 2nd day of March, 2022.

Ali Khawar,

Acting Assistant Secretary, Employee Benefits Security Administration, U.S. Department of Labor.

[FR Doc. 2022–04866 Filed 3–7–22; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Request for a Medical or Religious Exception or Delay to the COVID–19 Vaccination Requirement

AGENCY: Office of the Assistant Secretary for Administration and Management, Labor.

ACTION: Notice; request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (PRA), the DOL is soliciting public comments regarding the proposed revision of this Office of the Assistant Secretary for Administration and Management (OASAM)-sponsored information collection for the authority to continue and revise the information collection request (ICR) titled, ''Request for a Medical Exception or Delay to the COVID–19 Vaccination Requirement,'' currently approved under OMB Control Number 1225–0092.

DATES: Consideration will be given to all written comments received by May 9, 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 RARC Info at *Rarc.Info@dol.gov.*

Electronic submission: You may submit comments and attachments electronically at *DOL_PRA_PUBLIC@dol.gov,* identified by OMB Control Number 1225–0092.

Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) if the information will be processed and used in a timely manner; (3) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (4) ways to enhance the quality, utility and clarity of the information collection; and (5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Mara Blumenthal by telephone at 202–693–8538, or by email at *Rarc.Info@dol.gov*.

SUPPLEMENTARY INFORMATION: Consistent with guidance from the Centers for Disease Control and Prevention (CDC), guidance from the Safer Federal Workforce Task Force established pursuant to Executive Order 13991 of January 20, 2021, Protecting the Federal Workforce and Requiring Mask-Wearing, and Executive Order 14043 of September 9, 2021, Requiring Coronavirus Disease 2019 Vaccination for Federal Employees, the request for this collection of information is essential to implement DOL's health and safety measures regarding federal employee medical exemptions to the COVID–19 mandatory vaccinations. The Rehabilitation Act of 1973, as amended, requires Federal Agencies to provide reasonable accommodations to qualified employees with disabilities unless that reasonable accommodation would impose an undue hardship on the employee's Agency. See 29 U.S.C. 791; 29 CFR part 1614; see also 20 CFR part 1630 and Executive Order 13164 of July 26, 2000, Requiring Federal Agencies to Establish Procedures to Facilitate the Provision of Reasonable Accommodation. Section 2 of E.O. 14043 mandates that each agency ''implement, to the extent consistent with applicable law, a program to require COVID–19 vaccination for all of its Federal employees, with exceptions only as required by law.'' This medical exemption form is necessary for DOL to determine legal exemptions to the vaccine requirement under the Rehabilitation Act.

The Department of Labor is proposing to revise this ICR, which was approved in November 2021 under the Emergency Processing provisions of the PRA. The Department is requesting the same amount of burden in the currently approved ICR: 250 respondents, 10 minutes per response for a total of 42 hours. Additionally, the Department of Labor is proposing that student volunteers requesting a medical exception or delay to the COVID–19 Vaccination Requirement be required to complete this form. DOL estimates that there may be 100 student volunteers with the Department beginning this summer. While 40 volunteers are expected through the Secretary's formal program, many offices bring on volunteers through a variety of other methods. DOL is estimating that 10% may request a medical accommodation, for a total of 10 respondents.

The estimated time burden for a student volunteer to complete the form is 15 minutes. This is more burden than is placed on respondents in the currently approved collection that is limited to medical professionals providing information. Because the definition of 'person' under the PRA

excludes Federal employees operating within their professional capacity, it was only necessary in the currently approved collection to account for the time it takes the medical professional completing Part II of the form in assessing the burden when seeking the emergency PRA clearance. However, since student volunteers are not Federal employees, the time it takes student volunteers to complete the entire form must be accounted for in the burden assessment and requires approval by OMB. As a result, the Department of Labor is requesting approval for an additional 10 respondents, with an equal number of responses, and an additional 2.5 hours of time burden, for respective totals of 160 respondents with an equal number of responses and 44.5 annual burden hours for this form.

The Department of Labor is also proposing to add a new instrument to this ICR. DOL is proposing to add the form Request for a Religious Exception or Delay to the COVID–19 Vaccination Requirement. This religious exemption form is necessary for DOL to determine legal exemptions to the vaccine requirement from student volunteers under Title VII of the Civil Rights Act of 1964. As with the medical exemption noted above, the collection of this form from Federal employees does not require OMB approval. As student volunteers are not considered to be Federal employees, the Department must also account for the burden to complete the form to obtain approval from OMB in order to collect this information from student volunteers. Of the estimated 100 student volunteers the Department is anticipating this summer, DOL is estimating that 10% may request a religious accommodation, for a total of 10 respondents. The Department estimates that it will take respondents 15 minutes to fill out the form. Therefore, the Department of Labor is requesting approval for 10 respondents, with an equal number of responses, and 2.5 hours of time burden, for this form. Accordingly, the total estimated burden for this ICR is 270 respondents, with an equal number of responses, and 47 burden hours.

A Notice Regarding Injunctions

The vaccination requirement issued pursuant to E.O. 14043, is currently the subject of a nationwide preliminary injunction. While that injunction remains in place, DOL will not process requests for a medical or religious exceptions from the COVID–19 vaccination requirement pursuant to E.O. 14043. DOL will also not request the submission of any medical or religious information related to a request for an exception from the vaccination requirement pursuant to E.O. 14043 while the injunction remains in place. But DOL may nevertheless receive information regarding a medical exception. That is because, if DOL were to receive a request for an exception from the COVID–19 vaccination requirement pursuant to E.O. 14043 during the pendency of the injunction, DOL will accept the request, hold it in abeyance, and notify the volunteer who submitted the request that implementation and enforcement of the COVID–19 vaccination requirement pursuant to E.O. 14043 is currently enjoined and that an exception therefore is not necessary so long as the injunction is in place. In other words, during the pendency of the injunction, any information collection related to requests for medical or religious exceptions from the COVID–19 vaccination requirement pursuant to E.O. 14043 will not be undertaken to implement or enforce the COVID–19 vaccination requirement.

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–OASAM.

Type of Review: Revision.

Title of Collection: Request for a Medical or Religious Exception or Delay to the COVID–19 Vaccination Requirement.

OMB Control Number: 1225–0092.

Forms: Request for a Medical Exception or Delay to the COVID–19 Vaccination Requirement; Request for a Religious Exception or Delay to the COVID–19 Vaccination Requirement.

Affected Public: Individuals or Households.

Total Estimated Number of Respondents: 270.

Frequency: Once.

Total Estimated Number of Responses: 270.

Estimated Average Time per Response: Varies.

Total Estimated Annual Time Burden: 47 hours.

Total Estimated Annual Other Costs Burden: $0.

(Authority: 44 U.S.C. 3506(c)(2)(A))

Dated: March 1, 2022.

Milton Stewart,

Deputy Assistant Secretary for Operations.

[FR Doc. 2022–04864 Filed 3–7–22; 8:45 am]

BILLING CODE 4510–23–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petition for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: This notice is a summary a petition for modification submitted to the Mine Safety and Health Administration (MSHA) by the party listed below.

DATES: All comments on the petitions must be received by MSHA's Office of Standards, Regulations, and Variances on or before April 7, 2022.

ADDRESSES: You may submit comments identified by Docket No. MSHA–2022–0010 by any of the following methods:

1. *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments for MSHA–2022–0010.
2. *Fax:* 202–693–9441.
3. *Email: petitioncomments@dol.gov.*
4. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202–5452.

Attention: S. Aromie Noe, Acting Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk in Suite 4E401. Individuals may inspect copies of the petition and comments during normal business hours at the address listed above. Before visiting MSHA in person, call 202–693–9455 to make an appointment, in keeping with the Department of Labor's COVID–19 policy. Special health precautions may be required.

FOR FURTHER INFORMATION CONTACT: S. Aromie Noe, Office of Standards, Regulations, and Variances at 202–693–9440 (voice), *Petitionsformodification@dol.gov* (email), or 202–693–9441 (fax). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations (CFR) part 44 govern the application, processing, and disposition of petitions for modification.

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or

2. The application of such standard to such mine will result in a diminution of safety to the miners in such mine.

3. In addition, sections 44.10 and 44.11 of 30 CFR establish the requirements for filing petitions for modification.

II. Petition for Modification

Docket Number: M–2022–002–M.

Petitioner: Nevada Gold Mines, LLC, 1655 Mountain City Highway, Elko, Nevada 89801.

Mine: Exodus Mine, MSHA ID No. 26–02661, located in Eureka County, Nevada.

Regulation Affected: 30 CFR 57.11052(d), Refuge areas.

Modification Request: The petitioner requests a modification of 30 CFR 57.11052(d) to permit the use of sealed purified drinking water in lieu of providing potable water through waterlines in the existing refuge chambers and future refuge chambers and locations.

The petitioner states that:

(a) The mine is an underground portal gold mine with 11 refuge chambers located throughout the underground portion of the mine. In the refuge areas, drinkable water is supplied via commercially purchased water in sealed pouches.

(b) The refuge chambers are MineARC refuge chambers and are made of steel. The refuge chambers are equipped for a maximum capacity of between 6 and 16 miners each. This capacity exceeds the normal work crew of approximately 32 miners underground on any shift.

(c) Each refuge chamber is provided with a waterline. The water flowing through these lines is not potable due to the configuration of the waterlines and the water source. Installing waterlines to provide potable drinking water to each refuge chamber is not feasible due to the lack of essential infrastructure.

(d) The waterlines are susceptible to damage during an emergency and under normal working conditions. The water supply could be cut off completely.

(e) In an emergency, there can be no guarantee of potable drinking water via the waterline for miners using the refuge area. Application of the standard could adversely impact the safety of the affected miners if they were to rely on waterlines running from the portal to the refuge chambers, as these lines are subject to interruption and are inherently less safe than sanitary sealed water pouches located inside the refuge chambers. Sealed water stored inside each refuge chamber ensures that affected miners will have sanitary drinking water available to them in an emergency.

(f) The 11 refuge chambers at the mine are portable. Allowing the use of refuge chambers which do not have to be connected to waterlines provides greater flexibility in the location of the refuge chambers. Refuge chambers can be located in direct relation to where miners are working and relocated quickly to working areas as needed for the protection of miners.

The petitioner proposes the following alternative method:

(a) Drinking water will be supplied via commercially purchased water in sealed individual portion-sized pouches in each refuge chamber. The water is supplied by the case and packaged into 4.227 fluid ounce/125 milliliter portions with 50 individual portion sizes per case.

(b) At a minimum, the refuge chamber will be supplied with 2.25 quarts of water per day per person for 4 days. The total amount of water provided will vary depending on the maximum capacity of the refuge chamber. In a 6-man refuge chamber, a minimum of nine cases of water will be provided. In a 16-man refuge chamber, a minimum of 24 cases of water will be provided.

(c) The water will have a maximum shelf life of 5 years. The operator will replace the existing water supply with fresh water before the water's expiration date. The condition and quantity of water will be confirmed by inspection on no less than a monthly basis.

(d) Written instructions for conservation of water will be provided with the refuge chamber supplies.

(e) All miners affected will receive training in the operation of the refuge chamber and will receive refresher training annually.

(f) The refuge chamber will be inspected monthly and documented by the Mine Manager or the Manager's designee.

The petitioner asserts that the alternative method proposed will at all times guarantee no less than the same measure of protection afforded the miners under the mandatory standard.

Song-ae Aromie Noe,

Acting Director, Office of Standards, Regulations, and Variances.

[FR Doc. 2022–04865 Filed 3–7–22; 8:45 am]

BILLING CODE 4520–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petition for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: This notice is a summary a petition for modification submitted to the Mine Safety and Health Administration (MSHA) by the party listed below.

DATES: All comments on the petitions must be received by MSHA's Office of Standards, Regulations, and Variances on or before April 7, 2022.

ADDRESSES: You may submit comments identified by Docket No. MSHA–2022–0012 by any of the following methods:

1. *Federal eRulemaking Portal: https://www.regulations.gov*. Follow the instructions for submitting comments for MSHA–2022–0012.

2. *Fax:* 202–693–9441.

3. *Email: petitioncomments@dol.gov*.

4. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202–5452.

Attention: S. Aromie Noe, Acting Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk in Suite 4E401. Individuals may inspect copies of the petition and comments during normal business hours at the address listed above. Before visiting MSHA in person, call 202–693–9455 to make an appointment, in keeping with the Department of Labor's COVID–19 policy. Special health precautions may be required.

FOR FURTHER INFORMATION CONTACT: S. Aromie Noe, Office of Standards, Regulations, and Variances at 202–693–9440 (voice), *Petitionsformodification@dol.gov* (email), or 202–693–9441 (fax). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations (CFR) part 44 govern the application, processing, and disposition of petitions for modification.

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or

2. The application of such standard to such mine will result in a diminution of safety to the miners in such mine.

3. In addition, sections 44.10 and 44.11 of 30 CFR establish the requirements for filing petitions for modification.

II. Petition for Modification

Docket Number: M–2022–004–M.

Petitioner: Nevada Gold Mines, LLC, 1655 Mountain City Highway, Elko, Nevada, 89801.

Mine: Leeville Mine, MSHA ID No. 26–02512, located in Eureka County, Nevada.

Regulation Affected: 30 CFR 57.11052(d) Refuge areas.

Modification Request: The petitioner requests a modification of 30 CFR 57.11052(d) to permit the use of sealed purified drinking water in lieu of providing potable water through waterlines in the existing refuge chambers and future refuge chambers and locations.

The petitioner states that:

(a) The mine is an underground portal gold mine with 21 refuge chambers located throughout the underground portion of the mine. In the refuge areas, drinkable water is supplied via commercially purchased water in sealed pouches.

(b) The refuge chambers are MineARC refuge chambers and are made of steel. The refuge chambers are equipped for a maximum capacity of between 6 and 16 miners each. This capacity exceeds the normal work crew of approximately 125 miners underground on any shift.

(c) Each refuge chamber is provided with a waterline. The water flowing through these lines is not potable due to the configuration of the waterlines and the water source. Installing waterlines to provide potable drinking water to each refuge chamber is not feasible due to the lack of essential infrastructure.

(d) The waterlines are susceptible to damage during an emergency and under normal working conditions. The water supply could be cut off completely.

(e) In an emergency, there can be no guarantee of potable drinking water via the waterline for miners using the refuge area. Application of the standard could adversely impact the safety of the affected miners if they were to rely on waterlines running from the portal to the refuge chambers, as these lines are subject to interruption and are inherently less safe than sanitary sealed water pouches located inside the refuge chambers. Sealed water stored inside each refuge chamber ensures that affected miners will have sanitary drinking water available to them in an emergency.

(f) The 21 refuge chambers at the mine are portable. Allowing the use of refuge chambers which do not have to be connected to waterlines provides greater flexibility in the location of the refuge chambers. Refuge chambers can be located in direct relation to where miners are working and relocated quickly to working areas as needed for the protection of miners.

The petitioner proposes the following alternative method:

(a) Drinking water will be supplied via commercially purchased water in sealed individual portion-sized pouches in each refuge chamber. The water is supplied by the case and packaged into 4.225 fluid ounce/125 milliliter portions with 100 individual portion sizes per case.

(b) At a minimum, the refuge chamber will be supplied with 2.25 quarts of water per day per person for 4 days. The total amount of water provided will vary depending on the maximum capacity of the refuge chamber. In a 6-man refuge chamber, a minimum of five cases of water will be provided. In a 16-man refuge chamber, a minimum of 12 cases of water will be provided.

(c) The water will have a maximum shelf life of 5 years. The operator will replace the existing water supply with fresh water before the water's expiration date. The condition and quantity of water will be confirmed by inspection on no less than a monthly basis.

(d) Written instructions for conservation of water will be provided with the refuge chamber supplies.

(e) All miners affected will receive training in the operation of the refuge chamber and will receive refresher training annually.

(f) The refuge chamber will be inspected monthly and documented by the Mine Manager or the Manager's designee.

The petitioner asserts that the alternative method proposed will at all times guarantee no less than the same measure of protection afforded the miners under the mandatory standard.

Song-ae Aromie Noe,

Acting Director, Office of Standards, Regulations, and Variances.

[FR Doc. 2022–04861 Filed 3–7–22; 8:45 am]

BILLING CODE 4520–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petition for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: This notice is a summary a petition for modification submitted to the Mine Safety and Health Administration (MSHA) by the party listed below.

DATES: All comments on the petitions must be received by MSHA's Office of Standards, Regulations, and Variances on or before April 7, 2022.

ADDRESSES: You may submit comments identified by Docket No. MSHA–2022–0011 by any of the following methods:

1. *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments for MSHA–2022–0011.

2. *Fax:* 202–693–9441.

3. *Email: petitioncomments@dol.gov.*

4. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202–5452.

Attention: S. Aromie Noe, Acting Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk in Suite 4E401. Individuals may inspect copies of the petition and comments during normal business hours at the address listed above. Before visiting MSHA in person, call 202–693–9455 to make an appointment, in keeping with the Department of Labor's COVID–19 policy. Special health precautions may be required.

FOR FURTHER INFORMATION CONTACT: S. Aromie Noe, Office of Standards, Regulations, and Variances at 202–693–9440 (voice), *Petitionsformodification@dol.gov* (email), or 202–693–9441 (fax). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations (CFR) part 44 govern the application, processing, and disposition of petitions for modification.

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or

2. The application of such standard to such mine will result in a diminution of safety to the miners in such mine.

3. In addition, sections 44.10 and 44.11 of 30 CFR establish the requirements for filing petitions for modification.

II. Petition for Modification

Docket Number: M–2022–003–M.

Petitioner: Nevada Gold Mines, LLC, 1655 Mountain City Highway, Elko, Nevada, 89801.

Mine: Pete Bajo Mine, MSHA ID No. 26–02689, located in Eureka County, Nevada.

Regulation Affected: 30 CFR 57.11052(d) Refuge areas.

Modification Request: The petitioner requests a modification of 30 CFR 57.11052(d) to permit the use of sealed purified drinking water in lieu of providing potable water through waterlines in the existing refuge chambers and future refuge chambers and locations.

The petitioner states that:

(a) The mine is an underground portal gold mine with seven refuge chambers located throughout the underground portion of the mine. In the refuge areas, drinkable water is supplied via commercially purchased water in sealed pouches.

(b) The refuge chambers are MineARC refuge chambers and are made of steel. The refuge chambers are equipped for a maximum capacity of between 6 and 16 miners each. This capacity exceeds the normal work crew of approximately 32 miners underground on any shift.

(c) Each refuge chamber is provided with a waterline. The water flowing through these lines is not potable due to the configuration of the waterlines and the water source. Installing waterlines to provide potable drinking water to each refuge chamber is not feasible due to the lack of essential infrastructure.

(d) The waterlines are susceptible to damage during an emergency and under normal working conditions. The water supply could be cut off completely.

(e) In an emergency, there can be no guarantee of potable drinking water via the waterline for miners using the refuge area. Application of the standard could adversely impact the safety of the affected miners if they were to rely on waterlines running from the portal to the refuge chambers, as these lines are subject to interruption and are inherently less safe than sanitary sealed water pouches located inside the refuge chambers. Sealed water stored inside each refuge chamber ensures that affected miners will have sanitary drinking water available to them in an emergency.

(f) The seven refuge chambers at the mine are portable. Allowing the use of refuge chambers which do not have to be connected to waterlines provides greater flexibility in the location of the refuge chambers. Refuge chambers can be located in direct relation to where miners are working and relocated quickly to working areas as needed for the protection of miners.

The petitioner proposes the following alternative method:

(a) Drinking water will be supplied via commercially purchased water in sealed individual portion-sized pouches in each refuge chamber. The water is supplied by the case and packaged into 4.227 fluid ounce/125 milliliter portions with 50 individual portion sizes per case.

(b) At a minimum, the refuge chamber will be supplied with 2.25 quarts of water per day per person for 4 days. The total amount of water provided will vary depending on the maximum capacity of the refuge chamber. In a 6-man refuge chamber, a minimum of nine cases of water will be provided. In a 16-man refuge chamber, a minimum of 24 cases of water will be provided.

(c) The water will have a maximum shelf life of 5 years. The operator will replace the existing water supply with fresh water before the water's expiration date. The condition and quantity of water will be confirmed by inspection on no less than a monthly basis.

(d) Written instructions for conservation of water will be provided with the refuge chamber supplies.

(e) All miners affected will receive training in the operation of the refuge chamber and will receive refresher training annually.

(f) The refuge chamber will be inspected monthly and documented by the Mine Manager or the Manager's designee.

The petitioner asserts that the alternative method proposed will at all times guarantee no less than the same measure of protection afforded the miners under the mandatory standard.

Song-ae Aromie Noe,

Acting Director, Office of Standards, Regulations, and Variances.

[FR Doc. 2022–04862 Filed 3–7–22; 8:45 am]

BILLING CODE 4520–43–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 22–017]

Notice of Intent To Grant an Exclusive, Co-Exclusive or Partially Exclusive Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent to grant exclusive, co-exclusive or partially exclusive patent license.

SUMMARY: NASA hereby gives notice of its intent to grant an exclusive, co-exclusive or partially exclusive patent license to practice the inventions described and claimed in the patents and/or patent applications listed in **SUPPLEMENTARY INFORMATION** below.

DATES: The prospective exclusive, co-exclusive or partially exclusive license may be granted unless NASA receives written objections including evidence and argument, no later than March 23, 2022 that establish that the grant of the license would not be consistent with the requirements regarding the licensing of federally owned inventions as set forth in the Bayh-Dole Act and implementing regulations. Competing applications completed and received by NASA no later than March 23, 2022 will also be treated as objections to the grant of the contemplated exclusive, co-exclusive or partially exclusive license. Objections submitted in response to this notice will not be made available to the public for inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act.

Objections and Further Information: Written objections relating to the prospective license or requests for further information may be submitted to Agency Counsel for Intellectual Property, NASA Headquarters at Email: *hq-patentoffice@mail.nasa.gov.* Questions may be directed to Phone: (202) 358–3437.

SUPPLEMENTARY INFORMATION: NASA intends to grant an exclusive, co-

exclusive, or partially exclusive patent license in the United States to practice the inventions described and claimed in: U.S. Patent No. 11,078,984 titled ''Structure Movement Damping System Using Tension Element,'' to SEA.O.G, LLC, having its principal place of business in New Bedford, MA. The fields of use may be limited. NASA has not yet made a final determination to grant the requested license and may deny the requested license even if no objections are submitted within the comment period.

This notice of intent to grant an exclusive, co-exclusive or partially exclusive patent license is issued in accordance with 35 U.S.C. 209(e) and 37 CFR 404.7(a)(1)(i). The patent rights in these inventions have been assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. The prospective license will comply with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Information about other NASA inventions available for licensing can be found online at *http://technology.nasa.gov.*

Helen M. Galus,

Agency Counsel for Intellectual Property.

[FR Doc. 2022–04856 Filed 3–7–22; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[22–016]

Agency Information Collection Activities; Astronaut's System for Tracking and Requesting Appearances

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection.

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections.

DATES: Comments are due by May 9, 2022.

ADDRESSES: Written comments and recommendations for this 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.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Claire Little, NASA Clearance Officer, NASA Headquarters, 300 E Street SW, JF0000, Washington, DC 20546, 202–358–2375 or email *claire.a.little@nasa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This collection of information supports the National Aeronautics and Space Act of 1958, as amended, to enable NASA astronaut appearances before a variety of groups to inform the general public about the U.S. space program. Typically, presentations are made to high schools and universities, community organizations, businesses and associations, or military organizations. In order to reach as many people as possible, NASA offers three options to choose from in requesting an astronaut appearance:

(1) An in-person astronaut appearance whereby the astronaut travels to the appearance location.

(2) A virtual appearance utilizing virtual telecommunications tools to connect an astronaut via video conference with your organization.

(3) A recorded greeting arranged in advance to be used during a specified event.

The NASA Astronaut Appearance Office (AAO) located at the Lyndon B. Johnson Space Center (JSC) in Houston, Texas is responsible for vetting, processing, and coordinating logistics for Astronaut appearances. This information will be used by the NASA AAO and Legal and HR personnel in the vetting, coordinating, scheduling and authorization processes to work with requestors to facilitate the appearance logistics. Records of appearances, including the information associated with the requestor and points of contact are maintained by the AAO for a minimum of five (5) years.

II. Methods of Collection

Electronic.

III. Data

Title: ASTRA Official Appearance Request.

OMB Number:

Type of review: New.

Affected Public: Individuals.

Estimated Annual Number of Activities: 1,000.

Estimated Number of Respondents per Activity: 1.

Annual Responses: 1,000.

Estimated Time per Response: 10 minutes.

Estimated Total Annual Burden Hours: 167 hours.

Estimated Total Annual Cost: $1,450.00.

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 NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

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

Lori Parker,

NASA PRA Clearance Officer.

[FR Doc. 2022–04853 Filed 3–7–22; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2022–033]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of proposed extension request.

SUMMARY: We are proposing to request approval of a new information collection from the Office of Management and Budget (OMB). We are beginning a new recruitment program that connects veterans and Schedule A-eligible applicants with an opportunity for non-competitive employment. We propose to collect information from people who are interested in these opportunities in order to consider them for the positions and match them with possible jobs. The collection includes approval of a form, NARA Employment Interest Questionnaire, NA Form 3102. We invite you to comment on this proposed information collection.

DATES: We must receive written comments on or before May 9, 2022.

ADDRESSES: Email comments to *tamee.fechhelm@nara.gov* or send them to Paperwork Reduction Act Comments

(MP), Room 4100; National Archives and Records Administration; 8601 Adelphi Road; College Park, MD 20740–6001.

FOR FURTHER INFORMATION CONTACT: Tamee Fechhelm, Paperwork Reduction Act Officer, by email at *tamee.fechhelm@nara.gov* or by telephone at 301.837.1694 with requests for additional information or copies of the proposed information collection and supporting statement.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13), we invite the public and other Federal agencies to comment on proposed information collections. If you have comments or suggestions, they should address one or more of the following points: (a) Whether the proposed information collection is necessary for NARA to properly perform its functions; (b) our estimate of the burden of the proposed information collection and its accuracy; (c) ways we could enhance the quality, utility, and clarity of the information we collect; (d) ways we could minimize the burden on respondents of collecting the information, including through information technology; and (e) whether the collection affects small businesses.

We will summarize any comments you submit and include the summary in our request for OMB approval. All comments will become a matter of public record.

In this notice, we solicit comments concerning the following information collection:

Title: Schedule A and Veterans Recruitment Initiative Information.

OMB number: 3095–NEW.

Agency form number: NA Form 3102, NARA Employment Interest Questionnaire.

Type of review: Regular.

Affected public: Individuals or households.

Estimated number of respondents: 600.

Estimated time per response: 5 minutes.

Frequency of response: On occasion.

Estimated total annual burden hours: 50.

Abstract: We are implementing a new recruitment initiative by which we work to connect people who are veterans or are Schedule A-eligible with non-competitive employment opportunities within our agency. The Special Program Placement Coordinator (SPPC) serves as a liaison between the applicant and NARA managers and supervisors to find viable employment opportunities for applicants.

SPPC has developed a Resumé Repository (retained in a spreadsheet) to store resumés of qualified individuals who may meet our hiring needs. The Repository helps our agency find highly motivated veterans and Schedule A candidates who are eager to demonstrate their abilities in the workplace through excepted service positions, which could become permanent positions after trial period requirements have been met.

We collect the information for the Repository through an online form, NARA Employment Interest Questionnaire, NA Form 3102, which includes the following information for each individual: Applicant name, email address, phone number, types of positions applicant is interested in (may be multiple areas of interest), applicant's desired location(s), and minimum starting grade level applicant is willing to accept.

We enter the collected information from the questionnaire into the Repository spreadsheet, which managers and supervisors can use to sort and filter by position(s) of interest and/or duty location. We include resumés and cover letters as a link beside each candidate's entry so managers can view them and consider the candidate when looking for an employee. Managers have unlimited access to the Repository information and resumés to select qualified applicants to fill vacancies through a direct, non-competitive hire.

The Schedule A and veterans recruitment questionnaire link will be listed in our agency's information on the OPM website, in information provided by other agencies and organizations with similar programs, and on various pages of our agency's website at *www.archives.gov.*

Candidates must be U.S. citizens, eligible veterans, or be eligible under the Schedule A hiring authority.

Swarnali Haldar,

Executive for Information Services/CIO.

[FR Doc. 2022–04841 Filed 3–7–22; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2022–034]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of proposed extension request.

SUMMARY: We are proposing to request an extension from the Office of Management and Budget (OMB) of a currently approved information collection, Facility Access Media (FAM) Request, NA Form 6006, used by all individuals requesting recurring access to non-public areas of NARA's facilities and IT network. We invite you to comment on this proposed information collection pursuant to the Paperwork Reduction Act of 1995.

DATES: We must receive written comments on or before May 9, 2022.

ADDRESSES: Email comments to *tamee.fechhelm@nara.gov* or send them by mail to Paperwork Reduction Act Comments (MP), Room 4100; National Archives and Records Administration; 8601 Adelphi Road; College Park, MD 20740–6001.

FOR FURTHER INFORMATION CONTACT: Tamee Fechhelm, Paperwork Reduction Act Officer, by email at *tamee.fechhelm@nara.gov* or by telephone at 301.837.1694 with requests for additional information or copies of the proposed information collection and supporting statement.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13), we invite the public and other Federal agencies to comment on proposed information collections. If you have comments or suggestions, they should address one or more of the following points: (a) Whether the proposed information collection is necessary for NARA to properly perform its functions; (b) our estimate of the burden of the proposed information collection and its accuracy; (c) ways we could enhance the quality, utility, and clarity of the information we collect; (d) ways we could minimize the burden on respondents of collecting the information, including through information technology; and (e) whether the collection affects small businesses.

We will summarize any comments you submit and include the summary in our request for OMB approval. All comments will become a matter of public record.

In this notice, we solicit comments concerning the following information collection:

Title: Facility Access Media (FAM) Request.

OMB number: 3095–0057.

Agency form number: NA Form 6006.

Type of review: Regular.

Affected public: Individuals or households.

Estimated number of respondents: 1,500.

Estimated time per response: 3 minutes.

Frequency of response: On occasion.

Estimated total annual burden hours: 75 hours.

Abstract: All individuals who require recurring access to non-public areas of NARA's facilities and IT network (such as NARA employees, contractors, volunteers, NARA-related foundation employees, volunteers, interns, and other non-NARA Federal employees, such as Federal agency reviewers), herein referred to as ''applicants,'' complete the Facility Access Media (FAM) Request, NA Form 6006, in order to obtain NARA Facility Access Media (FAM). After we review the request, we issue the applicant a FAM, if approved, and they are then able to access non-public areas of NARA facilities and IT network. Collecting this information is necessary to comply with Homeland Security Presidential Directive (HSPD) 12 requirements for secure and reliable forms of personal identification issued by Federal agencies to their employees, contractors, and other individuals requiring recurring access to non-public areas of Government facilities and information services. We developed this form to comply with this requirement.

Swarnali Haldar,

Executive for Information Services/CIO.

[FR Doc. 2022–04857 Filed 3–7–22; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2022–032]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of proposed extension request.

SUMMARY: We are proposing to request an extension from the Office of Management and Budget (OMB) of a currently approved information collection used by former Federal civilian employees or other authorized individuals to request information from or copies of documents in Official Personnel Files (OPF) or Employee Medical Files (EMF). We invite you to comment on these proposed information collections pursuant to the Paperwork Reduction Act of 1995.

DATES: We must receive written comments on or before May 9, 2022.

ADDRESSES: Send comments to Paperwork Reduction Act Comments (MP), Room 4100; National Archives and Records Administration; 8601 Adelphi Road; College Park, MD 20740–6001, or email them to *tamee.fechhelm@nara.gov.*

FOR FURTHER INFORMATION CONTACT: Tamee Fechhelm, Paperwork Reduction Act Officer, by email at *tamee.fechhelm@nara.gov* or by telephone at 301.837.1694 with requests for additional information or copies of the proposed information collection and supporting statement.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13), we invite the public and other Federal agencies to comment on proposed information collections. If you have comments or suggestions, they should address one or more of the following points: (a) Whether the proposed information collection is necessary for NARA to properly perform its functions; (b) our estimate of the burden of the proposed information collection and its accuracy; (c) ways we could enhance the quality, utility, and clarity of the information we collect; (d) ways we could minimize the burden on respondents of collecting the information, including through information technology; and (e) whether the collection affects small businesses.

We will summarize any comments you submit and include the summary in our request for OMB approval. All comments will become a matter of public record.

In this notice, we solicit comments concerning the following information collection prescribed by regulation in 36 CFR 1228.164:

Title: Requests for Civilian Service Records (formerly Forms Relating to Civilian Service Records).

OMB number: 3095–0037.

Agency form number: NA Forms 13022, 13064, 13068.

Type of review: Regular.

Affected public: Former Federal civilian employees, their authorized representatives, state and local governments, and businesses.

Estimated number of respondents: 57,899.

Estimated time per response: 5 minutes per form.

Frequency of response: On occasion, when individuals desire to acquire information from Federal civilian employee personnel or medical records.

Estimated total annual burden hours: 4,824 hours.

Abstract: In accordance with rules issued by the Office of Personnel Management, the National Personnel Records Center (NPRC) of the National Archives and Records Administration (NARA) administers Official Personnel Folders (OPF) and Employee Medical Folders (EMF) of former Federal civilian employees. When former Federal civilian employees and other authorized individuals request information from or copies of documents in OPF or EMF, they must provide in their requests certain information about the employee and the nature of the request so that we can determine whether they are authorized to receive the information and so that we can find the correct records. The NA Form 13022, Returned Request Form, is used to request additional information about the former Federal employee. The NA Form 13064, Reply to Request Involving Relief Agencies, is used to request additional information about the former relief agency employee. The NA Form 13068, Walk-In Request for OPM Records or Information, is used by members of the public, with proper authorization, to request a copy of a personnel or medical record.

Swarnali Haldar,

Executive for Information Services/CIO.

[FR Doc. 2022–04844 Filed 3–7–22; 8:45 am]

BILLING CODE 7515–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 72–27; NRC–2022–0050]

Pacific Gas and Electric Company; Humboldt Bay Independent Spent Fuel Storage Installation

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment application; opportunity to request a hearing and to petition for leave to intervene.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has received an application from Pacific Gas and Electric Company (PG&E, the licensee) requesting an amendment to Special Nuclear Materials (SNM) License No. SNM–2514 for the Humboldt Bay Independent Spent Fuel Storage Installation (ISFSI), located in Humboldt County, California. The requested amendment proposes to delete and make administrative changes to certain license conditions, revise certain technical specifications that are no longer applicable to the Humboldt Bay ISFSI, and add a new administrative technical specification concerning the processing of administrative changes to Humboldt Bay ISFSI's quality assurance program.

DATES: A request for a hearing or petition for leave to intervene must be filed by May 9, 2022.

ADDRESSES: Please refer to Docket ID NRC–2022–0050 when contacting the NRC about the availability of

information for this action. You may obtain publicly available information related to this action using any of the following methods:

• *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2022–0050. 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*. The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.

• *NRC's PDR:* You may examine and purchase copies of public documents, by appointment, at the NRC's PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8:00 a.m. and 4:00 p.m. (ET), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Donald Habib, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–1035, email: *Donald.Habib@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Introduction

By letter dated December 14, 2021 (ADAMS Accession No. ML21348A389), the NRC received an application from PG&E to amend SNM License No. SNM–2514, which authorizes the receipt, possession, storage, and transfer of spent fuel, reactor-related greater than Class C waste, and other greater than Class C radioactive materials at the Humboldt Bay ISFSI. The proposed amendment, if granted, would incorporate the following changes:

1. Make administrative changes to license conditions that reference Humboldt Bay Power Plant.

2. Delete license conditions that are complete, no longer applicable, or restate NRC regulations.

3. Revise the technical specifications to remove Humboldt Bay Power Plant systems, structures, components, and activities that are no longer applicable.

4. Add a new administrative technical specification for processing administrative changes to the Humboldt Bay ISFSI Quality Assurance Program.

If the NRC grants the amendment request, the NRC will revise the Humboldt Bay ISFSI license and technical specifications to incorporate the requested changes.

An NRC administrative completeness review found the application acceptable for a technical review (ADAMS Accession No. ML22027A468). Prior to approving the amendment, the NRC will need to make the findings required by the Atomic Energy Act of 1954 as amended and the NRC's regulations. The NRC's findings will be documented in a safety evaluation report. In its amendment request, PG&E asserted that the proposed amendment satisfies the categorical exclusion criteria of paragraph 51.22(c)(11) of title 10 of the *Code of Federal Regulations* (10 CFR). After reviewing the amendment request, the NRC will make findings consistent with the National Environmental Policy Act and 10 CFR part 51.

II. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any person (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the action. Petitions shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309. The NRC's regulations are accessible electronically from the NRC Library on the NRC's website at *https://www.nrc.gov/reading-rm/doc-collections/cfr/*. If a petition is filed, the presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

As required by 10 CFR 2.309(d) the petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements for standing: (1) The name, address, and telephone number of the petitioner; (2) the nature of the petitioner's right to be made a party to the proceeding; (3) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the petitioner's interest.

In accordance with 10 CFR 2.309(f), the petition must also set forth the specific contentions which the petitioner seeks to have litigated in the proceeding. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner must provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to the specific sources and documents on which the petitioner intends to rely to support its position on the issue. The petition must include sufficient information to show that a genuine dispute exists with the applicant or licensee on a material issue of law or fact. Contentions must be limited to matters within the scope of the proceeding. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to satisfy the requirements at 10 CFR 2.309(f) with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene. Parties have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that party's admitted contentions, including the opportunity to present evidence, consistent with the NRC's regulations, policies, and procedures.

Petitions must be filed no later than 60 days from the date of publication of this notice in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii).

A State, local governmental body, Federally recognized Indian Tribe, or designated agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1) no later than 60 days from the date of publication of this notice. The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition must be filed in accordance with the filing instructions in the ''Electronic

Submissions (E-Filing)'' section of this document and should meet the requirements for petitions set forth in this section. Alternatively, a State, local governmental body, Federally recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

For further information about filing a petition and about participation by a person not a party under 10 CFR 2.315, see ADAMS Accession No. ML20340A053 (*https://adamswebsearch2.nrc.gov/webSearch2/main.jsp?AccessionNumber=ML20340A053*) and on the NRC website at *https://www.nrc.gov/about-nrc/regulatory/adjudicatory/hearing.html#participate*.

III. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including documents filed by an interested State, local governmental body, Federally recognized Indian Tribe, or designated agency thereof that requests to participate under 10 CFR 2.315(c), must be filed in accordance with 10 CFR 2.302. The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases, to mail copies on electronic storage media, unless an exemption permitting an alternative filing method, as further discussed, is granted. Detailed guidance on electronic submissions is located in the Guidance for Electronic Submissions to the NRC (ADAMS Accession No. ML13031A056) and on the NRC website at *https://www.nrc.gov/site-help/e-submittals.html*.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *Hearing.Docket@nrc.gov*, or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals/getting-started.html*. After a digital ID certificate is obtained and a docket created, the participant must submit adjudicatory documents in Portable Document Format. Guidance on submissions is available on the NRC's public website at *https://www.nrc.gov/site-help/electronic-sub-ref-mat.html*. A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email confirming receipt of the document. The E-Filing system also distributes an email that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed to obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted in accordance with 10 CFR 2.302(b)–(d). Participants filing adjudicatory documents in this manner are responsible for serving their documents on all other participants. Participants granted an exemption under 10 CFR 2.302(g)(2) must still meet the electronic formatting requirement in 10 CFR 2.302(g)(1), unless the participant also seeks and is granted an exemption from 10 CFR 2.302(g)(1).

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket, which is publicly available at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an order of the presiding officer. If you do not have an NRC-issued digital ID certificate as previously described, click ''cancel'' when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information such as social security numbers, home addresses, or personal phone numbers in their filings unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants should not include copyrighted materials in their submission.

Dated: March 3, 2022.

For the Nuclear Regulatory Commission.

Christian J. Jacobs,

Acting Chief, Storage and Transportation Licensing Branch, Division of Fuel Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2022–04877 Filed 3–7–22; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 72–1050; NRC–2016–0231]

Interim Storage Partners, LLC; WCS Consolidated Interim Storage Facility

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment application; notice of docketing.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) staff accepts and dockets a license amendment application for Special Nuclear Materials (SNM) License No. SNM–2515, submitted by Interim Storage Partners, LLC (ISP) for the WCS Consolidated Interim Storage Facility (CISF), located in Andrews County, TX, dated January 24, 2022. The requested amendment proposes administrative changes to the license to clarify the schedule for submitting certain required license amendment requests.

DATES: The license amendment request referenced in this document is available on January 24, 2022.

ADDRESSES: Please refer to Docket ID NRC–2016–0231 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–2016–0231. 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 problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *PDR.Resource@nrc.gov.* The license amendment request and the NRC acceptance letter are available in ADAMS under Accession Nos. ML22024A142 and ML22054A243, respectively.

• *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: John-Chau Nguyen, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–0262, email: *John-Chau.Nguyen@nrc.gov.*

SUPPLEMENTARY INFORMATION: On January 24, 2022, ISP submitted an application to the U.S. Nuclear Regulatory Commission (NRC or the Commission), in accordance with Part 72 of title 10 of the *Code of Federal Regulations* (10 CFR) ''Licensing requirements for the independent storage of spent nuclear fuel and high-level radioactive waste, and reactor-related greater than Class C waste,'' requesting an amendment to SNM–2515 for the WCS Consolidated Interim Storage Facility (CISF), located in Andrews County, TX. The license authorizes ISP to receive, possess, store, and transfer spent nuclear fuel and associated radioactive materials for a term of 40 years.

ISP requests that License Condition 17 of License SNM–2515 be revised to clarify the timing of mandatory license amendment submissions relating to the incorporation of technically relevant Aging Management Programs for certain spent fuel storage cask certificates of compliance that may be renewed and that are incorporated by reference in SNM–2515.

Pursuant to 10 CFR 72.16, the NRC has docketed the proposed Amendment No. 1 to SNM–2515 held by ISP for the receipt, possession, transfer, and storage of spent fuel at the WCS CISF, and is hereby publishing a notice of docketing in the **Federal Register**.

Dated: March 2, 2022.

For the Nuclear Regulatory Commission.

Christian J. Jacobs,

Acting Chief, Storage and Transportation Licensing Branch, Division of Fuel Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2022–04821 Filed 3–7–22; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2022–0041]

Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving Proposed No Significant Hazards Considerations and Containing Sensitive Unclassified Non-Safeguards Information and Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment request; notice of opportunity to comment, request a hearing, and petition for leave to intervene; order imposing procedures.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) received and is considering approval of two amendment requests. The amendment requests are for Columbia Generating Station and Browns Ferry Nuclear Plant, Units 1, 2, and 3. For each amendment request, the NRC proposes to determine that they involve no significant hazards consideration (NSHC). Because each amendment request contains sensitive unclassified non-safeguards information (SUNSI), an order imposes procedures to obtain access to SUNSI for contention preparation by persons who file a hearing request or petition for leave to intervene.

DATES: Comments must be filed by April 7, 2022. A request for a hearing or petition for leave to intervene must be filed by May 9, 2022. Any potential party as defined in section 2.4 of title 10 of the *Code of Federal Regulations* (10 CFR) who believes access to SUNSI is necessary to respond to this notice must request document access by March 18, 2022.

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–2022–0041. 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:* Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.

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

FOR FURTHER INFORMATION CONTACT: Paula Blechman, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–2242, email: *Paula.Blechman@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2022–0041, facility name, unit number(s), docket number(s), application date, and subject 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–2022–0041.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html*. To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *PDR.Resource@nrc.gov*. The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.

• *NRC's PDR:* You may examine and purchase copies of public documents, by appointment, at the NRC's PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8:00 a.m. and 4:00 p.m. Eastern Time (ET), Monday through Friday, except Federal holidays.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal Rulemaking website (*https://www.regulations.gov*). Please include Docket ID NRC–2022–0041, facility name, unit number(s), docket number(s), application date, and subject in your comment submission.

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

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

II. Background

Pursuant to Section 189a.(2) of the Atomic Energy Act of 1954, as amended (the Act), the NRC is publishing this notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves NSHC, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This notice includes notices of amendments containing SUNSI.

III. Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve NSHC. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown as follows.

The Commission is seeking public comments on these proposed determinations. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determinations.

Normally, the Commission will not issue the amendments until the expiration of 60 days after the date of publication of this notice. The Commission may issue any of these license amendments before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue any of these amendments prior to the expiration of the 30-day comment period if circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility. If the Commission takes action on any of these amendments prior to the expiration of either the comment period or the notice period, it will publish a notice of issuance in the **Federal Register**. If the Commission makes a final no significant hazards consideration determination for any of these amendments, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

A. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any persons (petitioner) whose interest may be affected by any of these actions may file a request for a hearing and petition for leave to intervene (petition) with respect to that action. Petitions shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309. The NRC's regulations are accessible electronically from the NRC Library on the NRC's website at *https://www.nrc.gov/reading-rm/doc-collections/cfr/*. If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

As required by 10 CFR 2.309(d) the petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements for standing: (1) The name, address, and telephone number of the petitioner; (2) the nature of the petitioner's right to be made a party to the proceeding; (3) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the petitioner's interest.

In accordance with 10 CFR 2.309(f), the petition must also set forth the specific contentions that the petitioner seeks to have litigated in the proceeding. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner must provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion that support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to the specific sources and documents on which the petitioner intends to rely to support its position on the issue. The petition must include sufficient information to show that a

genuine dispute exists with the applicant or licensee on a material issue of law or fact. Contentions must be limited to matters within the scope of the proceeding. The contention must be one that, if proven, would entitle the petitioner to relief. A petitioner who fails to satisfy the requirements at 10 CFR 2.309(f) with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene. Parties have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that party's admitted contentions, including the opportunity to present evidence, consistent with the NRC's regulations, policies, and procedures.

Petitions must be filed no later than 60 days from the date of publication of this notice. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii). The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document.

If a hearing is requested and the Commission has not made a final determination on the issue of NSHC, the Commission will make a final determination on the issue of NSHC. The final determination will serve to establish when the hearing is held. If the final determination is that the amendment request involves NSHC, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of the amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

A State, local governmental body, Federally recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission no later than 60 days from the date of publication of this notice. The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document, and should meet the requirements for petitions set forth in this section, except that under 10 CFR 2.309(h)(2) a State, local governmental body, or Federally recognized Indian Tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within its boundaries. Alternatively, a State, local governmental body, Federally recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

If a petition is submitted, any person who is not a party to the proceeding and is not affiliated with or represented by a party may, at the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of his or her position on the issues but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Details regarding the opportunity to make a limited appearance will be provided by the presiding officer if such sessions are scheduled.

B. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings including documents filed by an interested State, local governmental body, Federally recognized Indian Tribe, or designated agency thereof that requests to participate under 10 CFR 2.315(c), must be filed in accordance with 10 CFR 2.302. The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases, to mail copies on electronic storage media, unless an exemption permitting an alternative filing method, as discussed in this notice, is granted. Detailed guidance on electronic submissions is located in the Guidance for Electronic Submissions to the NRC (ADAMS Accession No. ML13031A056) and on the NRC website at *https://www.nrc.gov/site-help/e-submittals.html.*

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *Hearing.Docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals/getting-started.html.* After a digital ID certificate is obtained and a docket created, the participant must submit adjudicatory documents in Portable Document Format. Guidance on submissions is available on the NRC's public website at *https://www.nrc.gov/site-help/electronic-sub-ref-mat.html.* A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. (ET) on the due date. Upon receipt of a transmission, the E-Filing system timestamps the document and sends the submitter an email confirming receipt of the document. The E-Filing system also distributes an email that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed to obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., (ET), Monday through Friday, excluding government holidays.

Participants who believe that they have good cause for not submitting documents electronically must file an

exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted in accordance with 10 CFR 2.302(b)–(d). Participants filing adjudicatory documents in this manner are responsible for serving their documents on all other participants. Participants granted an exemption under 10 CFR 2.302(g)(2) must still meet the electronic formatting requirement in 10 CFR 2.302(g)(1), unless the participant also seeks and is granted an exemption from 10 CFR 2.302(g)(1).

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket, which is publicly available at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an order of the presiding officer. If you do not have an NRC-issued digital ID certificate as previously described, click ''cancel'' when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information such as social security numbers, home addresses, or personal phone numbers in their filings unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants should not include copyrighted materials in their submission.

ENERGY NORTHWEST; COLUMBIA GENERATING STATION; BENTON COUNTY, WA

Energy Northwest; Columbia Generating Station; Benton County, WA	
Docket No(s)	50–397
Application Date	October 13, 2021.
ADAMS Accession No	ML21299A182.
Location in Application of NSHC	Pages 6–7 of Enclosure 1.
Brief Description of Amendment(s)	The proposed amendment would revise the Columbia Generating Station Technical Specification 3.4.11 for reactor coolant system pressure and temperature limits to support license renewal.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Kathleen Galioto, Assistant General Counsel, Energy Northwest, MD PE1020, P.O. Box 968, Richland, WA 99352.
NRC Project Manager, Telephone Number	Mahesh Chawla, 301–415–8371.

Tennessee Valley Authority; Browns Ferry Nuclear Plant, Units 1, 2, and 3; Limestone County, AL	
Docket No(s)	50–259, 50–260, 50–296.
Application Date	July 23, 2021, as supplemented by letter dated August 6, 2021.
ADAMS Accession Nos	ML21204A128, ML21218A192.
Location in Application of NSHC	Pages E–17 through E–19 of the Enclosure.
Brief Description of Amendment(s)	The proposed amendments would revise the Browns Ferry Nuclear Plant, Units 1, 2, and 3 Technical Specifications (TS) 5.6.5, ''Core Operating Limits Report (COLR),'' to allow application of Advanced Framatome Methodologies for determining core operating limits in support of loading Framatome fuel type ATRIUM 11. As a result, Framatome methodologies that will no longer apply would be removed from TS 5.6.5, and new methodologies would be added. Other conforming changes to the methodologies in TS 5.6.5 are proposed, as well as the deletion of Note F from TS Table 3.3.1.1–1, to reflect the transition from ATRIUM 10XM fuel to ATRIUM 11 fuel. The proposed amendments would also delete a plant-specific report previously required at the time ATRIUM 10XM fuel was approved for use that is now no longer needed due to the NRC approval of Revision 1 to Topical Report ANP–10298. The proposed amendments would also adopt Technical Specifications Task Force (TSTF) Traveler TSTF–564, ''Safety Limit MCPR [Minimum Critical Power Ratio],'' to revise the TS safety limit on MCPR (SLMCPR). Additionally, TS 5.6.5 would be revised to require the SLMCPR value to be included in the COLR.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	David Fountain, Executive VP and General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, WT 6A, Knoxville, TN 37902.
NRC Project Manager, Telephone Number	Kimberly Green, 301–415–1627.

Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information for Contention Preparation

Energy Northwest; Columbia Generating Station; Benton County, WA

Tennessee Valley Authority; Browns Ferry Nuclear Plant, Units 1, 2, and 3; Limestone County, AL

A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing Sensitive Unclassified Non-Safeguards Information (SUNSI).

B. Within 10 days after publication of this notice of hearing and opportunity to petition for leave to intervene, any potential party who believes access to SUNSI is necessary to respond to this notice may request access to SUNSI. A ''potential party'' is any person who intends to participate as a party by demonstrating standing and filing an admissible contention under 10 CFR 2.309. Requests for access to SUNSI submitted later than 10 days after publication of this notice will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

C. The requestor shall submit a letter requesting permission to access SUNSI to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff,

and provide a copy to the Deputy General Counsel for Licensing, Hearings, and Enforcement, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. The expedited delivery or courier mail address for both offices is: U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852. The email address for the Office of the Secretary and the Office of the General Counsel are *Hearing.Docket@nrc.gov* and *RidsOgcMailCenter.Resource@nrc.gov,* respectively.[1] The request must include the following information:

(1) A description of the licensing action with a citation to this **Federal Register** notice;

(2) The name and address of the potential party and a description of the potential party's particularized interest that could be harmed by the action identified in C.(1); and

(3) The identity of the individual or entity requesting access to SUNSI and the requestor's basis for the need for the information in order to meaningfully participate in this adjudicatory proceeding. In particular, the request must explain why publicly available versions of the information requested would not be sufficient to provide the basis and specificity for a proffered contention.

D. Based on an evaluation of the information submitted under paragraph C.(3), the NRC staff will determine within 10 days of receipt of the request whether:

(1) There is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding; and

(2) The requestor has established a legitimate need for access to SUNSI.

E. If the NRC staff determines that the requestor satisfies both D.(1) and D.(2), the NRC staff will notify the requestor in writing that access to SUNSI has been granted. The written notification will contain instructions on how the requestor may obtain copies of the requested documents, and any other conditions that may apply to access to those documents. These conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order[2] setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI by each individual who will be granted access to SUNSI.

F. Filing of Contentions. Any contentions in these proceedings that are based upon the information received as a result of the request made for SUNSI must be filed by the requestor no later than 25 days after receipt of (or access to) that information. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.

G. Review of Denials of Access.

(1) If the request for access to SUNSI is denied by the NRC staff after a determination on standing and requisite need, the NRC staff shall immediately notify the requestor in writing, briefly stating the reason or reasons for the denial.

(2) The requestor may challenge the NRC staff's adverse determination by filing a challenge within 5 days of receipt of that determination with: (a) The presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an Administrative Law Judge with jurisdiction pursuant to 10 CFR 2.318(a); if another officer has been designated to rule on information access issues, with that officer.

(3) Further appeals of decisions under this paragraph must be made pursuant to 10 CFR 2.311.

H. Review of Grants of Access. A party other than the requestor may challenge an NRC staff determination granting access to SUNSI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed within 5 days of the notification by the NRC staff of its grant of access and must be filed with: (a) The presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an Administrative Law Judge with jurisdiction pursuant to 10 CFR 2.318(a); if another officer has been designated to rule on information access issues, with that officer.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes concerning access to information. The availability of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR 2.311.[3]

I. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR part 2. The attachment to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

It is so ordered.

Dated: February 16, 2022.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

ATTACHMENT 1—GENERAL TARGET SCHEDULE FOR PROCESSING AND RESOLVING REQUESTS FOR ACCESS TO SENSITIVE UNCLASSIFIED NON-SAFEGUARDS INFORMATION IN THIS PROCEEDING

Day	Event/activity
0	Publication of **Federal Register** notice of hearing and opportunity to petition for leave to intervene, including order with instructions for access requests.

[1] While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's ''E-Filing Rule,'' the initial request to access SUNSI under these procedures should be submitted as described in this paragraph.

[2] Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SUNSI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 30 days of the deadline for the receipt of the written access request.

[3] Requestors should note that the filing requirements of the NRC's E-Filing Rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012) apply to appeals of NRC staff determinations (because they must be served on a presiding officer or the Commission, as applicable), but not to the initial SUNSI request submitted to the NRC staff under these procedures.

ATTACHMENT 1—GENERAL TARGET SCHEDULE FOR PROCESSING AND RESOLVING REQUESTS FOR ACCESS TO SENSITIVE UNCLASSIFIED NON-SAFEGUARDS INFORMATION IN THIS PROCEEDING—Continued

Day	Event/activity
10	Deadline for submitting requests for access to Sensitive Unclassified Non-Safeguards Information (SUNSI) with information: Supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding.
60	Deadline for submitting petition for intervention containing: (i) Demonstration of standing; and (ii) all contentions whose formulation does not require access to SUNSI (+25 Answers to petition for intervention; +7 petitioner/requestor reply).
20	U.S. Nuclear Regulatory Commission (NRC) staff informs the requestor of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows need for SUNSI. (NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents).
25	If NRC staff finds no ''need'' or no likelihood of standing, the deadline for petitioner/requestor to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds ''need'' for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.
30	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
40	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI.
A	If access granted: Issuance of presiding officer or other designated officer decision on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
A + 3	Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI consistent with decision issuing the protective order.
A + 28	Deadline for submission of contentions whose development depends upon access to SUNSI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of opportunity to request a hearing and petition for leave to intervene), the petitioner may file its SUNSI contentions by that later deadline.
A + 53	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI.
A + 60	(Answer receipt +7) Petitioner/Intervenor reply to answers.
>A + 60	Decision on contention admission.

[FR Doc. 2022–03780 Filed 3–7–22; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2022–0036]

Water Sources for Long-Term Recirculation Cooling Following a Loss-of-Coolant Accident

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft regulatory guide; extension of comment period.

SUMMARY: On February 8, 2022, the U.S. Nuclear Regulatory Commission (NRC) solicited comments on draft regulatory guide (DG), DG–1385, ''Water Sources for Long-Term Cooling Following a Loss-of-Coolant Accident.'' The public comment period was originally scheduled to close on March 10, 2022. The NRC has decided to extend the public comment period to allow more time for members of the public to develop and submit their comments.

DATES: The due date for comments requested in the document published on February 8, 2022 (87 FR 7209) has been extended. Comments should be filed no later than April 8, 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–2022–0036. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov.* For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.

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

FOR FURTHER INFORMATION CONTACT: Ahsan Sallman, Office of Nuclear Reactor Regulation, telephone: 301–415–2380, email: *Ahsan.Salman@nrc.gov,* and James Steckel, Office of Nuclear Regulatory Research, telephone: 301–415–1026, email: *James.Steckel@nrc.gov.* Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2021–0036 when contacting the NRC about the availability of information regarding 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–2021–0036.
- *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 questions regarding use of 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.*

• NRC's PDR: You may examine and purchase copies of public documents, by appointment, at the NRC's PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8:00 a.m. and 4:00 p.m. (ET), Monday through Friday, except Federal holidays

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (*https://www.regulations.gov*). Please include Docket ID NRC–2021–0036 in your comment submission.

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

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

II. Discussion

On February 8, 2022, the NRC published a document in the **Federal Register** (87 FR 7209) soliciting comments on DG–1385, ''Water Sources for Long-Term Cooling Following a Loss-of-Coolant Accident.'' This DG is proposed Revision 5 to Regulatory Guide 1.82, which describes an approach that may be used to determine quality standards acceptable to the NRC staff, to meet the regulatory requirements for sumps and suppression pools that provide water sources for emergency core cooling, containment heat removal, or containment atmosphere cleanup systems. It also provides guidelines for evaluating the adequacy and the availability of the sump or suppression pool for long-term recirculation cooling following a loss-of-coolant-accident, and the use of containment accident pressure in determining the net positive suction head for the emergency core cooling and containment heat removal pumps. This proposed revision guidance applies to both the pressurized-water reactor and boiling-water reactor types of light-water reactors. The comment period was originally scheduled to close on March 10, 2022. Upon the request of the Nuclear Energy Institute, the NRC has decided to extend the public comment period on this document until April 8, 2022, to allow more time for members of the public to submit their comments.

Dated: March 2, 2022.

For the Nuclear Regulatory Commission.

Meraj Rahimi,

Chief, Regulatory Guide and Programs Management Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2022–04838 Filed 3–7–22; 8:45 am]

BILLING CODE 7590–01–P

PENSION BENEFIT GUARANTY CORPORATION

Proposed Submission of Information Collections for OMB Review; Comment Request; Multiemployer Plan Regulations

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of intent to request extension of OMB approval of information collections.

SUMMARY: The Pension Benefit Guaranty Corporation (PBGC) intends to request that the Office of Management and Budget (OMB) extend its approval, under the Paperwork Reduction Act of collections of information in PBGC's regulations on multiemployer plans under the Employee Retirement Income Security Act of 1974 (ERISA). This notice informs the public of PBGC's intent and solicits public comment on the collections of information.

DATES: Comments must be submitted by May 9, 2022.

ADDRESSES: Comments may be submitted by any of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.

• *Email: paperwork.comments@pbgc.gov.*

• *Mail or Hand Delivery:* Regulatory Affairs Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005–4026.

Commenters are strongly encouraged to submit public comments electronically. PBGC expects to have limited personnel available to process public comments that are submitted on paper through mail. Until further notice, any comments submitted on paper will be considered to the extent practicable.

All submissions received must include the agency's name (Pension Benefit Guaranty Corporation, or PBGC) and refer to the OMB control number(s) and the specific part number(s) of the regulation(s) they relate to. All comments received will be posted without change to PBGC's website, *http://www.pbgc.gov,* including any personal information provided. Commenters should not include any information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (''confidential business information''). Submission of confidential business information without a request for protected treatment constitutes a waiver of any claims of confidentiality.

Copies of the collections of information may be obtained by writing to Disclosure Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005–4026, or calling 202–229–4040 during normal business hours. If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

FOR FURTHER INFORMATION CONTACT: Karen Levin (*levin.karen@pbgc.gov*), Attorney, Regulatory Affairs Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005–4026, 202–229–3559. (If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.)

SUPPLEMENTARY INFORMATION: OMB has approved and issued control numbers for three collections of information in PBGC's regulations relating to multiemployer plans. These collections of information are described below. OMB approvals for these collections of information expire June 30, 2022. PBGC intends to request that OMB extend its approval of these collections of information for 3 years. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. PBGC is soliciting public comments to—

• Evaluate whether the proposed collections of information are 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 collections of information, including the validity of the methodologies and assumptions used;
• Enhance the quality, utility, and clarity of the information to be collected; and
• Minimize the burden of the collections 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.

1. Termination of Multiemployer Plans (29 CFR Part 4041A) (OMB Control Number 1212–0020) (Expires June 30, 2022)

Section 4041A(f)(2) of ERISA authorizes PBGC to prescribe reporting requirements and other rules and standards for administering terminated multiemployer plans. Section 4041A(c) and (f)(1) of ERISA prohibit the payment by a mass-withdrawal-terminated plan of lump sums greater than $1,750 or of nonvested plan benefits unless authorized by PBGC.

The regulation requires the plan sponsor of a terminated plan to file a notice of termination with PBGC. The notice of termination must contain the information and certification specified in the instructions for the notice of termination on *http://www.pbgc.gov.* The regulation also requires the plan sponsor of a mass-withdrawal-terminated plan that is closing out to give notices to participants regarding the election of alternative forms of benefit distribution and, if the plan is not closing out, to obtain PBGC approval to pay lump sums greater than $1,750 or to pay nonvested plan benefits.

PBGC uses the information in a notice of termination to assess the likelihood that PBGC financial assistance will be needed. Plan participants and beneficiaries use the information on alternative forms of benefit to make personal financial decisions. PBGC uses the information in an application for approval to pay lump sums greater than $1,750 or to pay nonvested plan benefits to determine whether such payments should be permitted.

The regulation also requires plans terminated by mass withdrawal, plans terminated by plan amendment that are expected to become insolvent, and insolvent plans under part 4245 receiving financial assistance from PBGC (whether terminated or not terminated) to file with PBGC withdrawal liability information and actuarial valuations or, for smaller plans receiving financial assistance where the present value of the plan's nonforfeitable benefits is $50 million or less, alternative information. PBGC uses the withdrawal liability and actuarial valuation information to estimate PBGC's multiemployer liabilities for purposes of its financial statements and to provide financial assistance to plans that become insolvent.

PBGC estimates that each year, plan sponsors submit notices of termination for five plans, distribute election notices to participants in one of those plans and submit requests to pay benefits or benefit forms not otherwise permitted for one of those plans. The estimated annual burden of this part of this collection of information is 25 hours and $25,000.

Furthermore, PBGC estimates that each year, plan sponsors file actuarial valuations electronically for 100 plans that are terminated or insolvent, and that only 1 smaller plan will file alternative information. The estimated annual burden of this part of the collection of information is 26 hours and $10,400.

PBGC estimates that each year plan sponsors file withdrawal liability payment information from approximately 10 plans. The estimated annual burden of this part of the collection of information is 10 hours and $4,000.

The estimated total hour burden is 61 hours (25 + 26 + 10). The estimated annual burden of the collection of information is estimated to be $39,400 ($25,000 + $4,000 + $10,400).

2. Duties of Plan Sponsor of an Insolvent Plan (29 CFR Part 4245) (OMB Control Number 1212–0033) (Expires June 30, 2022)

Section 4245(e) of ERISA requires two types of notice: A ''notice of insolvency,'' stating a plan sponsor's determination that the plan is or may become insolvent, and a ''notice of insolvency benefit level,'' stating the level of benefits that will be paid during an insolvency year. The recipients of these notices are PBGC, contributing employers, employee organizations representing participants, and participants and beneficiaries.

The regulation establishes the procedure for complying with these notice requirements. It allows a plan sponsor to combine the notice of insolvency and notice of insolvency benefit level. In addition, the regulation only requires a plan sponsor to provide an updated notice to participants and beneficiaries if there is a change in the amount of benefits paid to participants and beneficiaries. PBGC uses the information submitted to estimate cash needs for financial assistance to troubled plans. The collective bargaining parties use the information to decide whether additional plan contributions will be made to avoid the insolvency and consequent benefit suspensions. Plan participants and beneficiaries use the information in personal financial decisions.

PBGC estimates that at most one plan sponsor of an ongoing plan gives notices each year under section 4245. The estimated annual burden of the collection of information is 16 hours and $10,000.

3. Duties of Plan Sponsor Following Mass Withdrawal (29 CFR Part 4281) (OMB Control Number 1212–0032) (Expires June 30, 2022)

Section 4281 of ERISA provides rules for plans that have terminated by mass withdrawal. Under section 4281, if nonforfeitable benefits exceed plan assets, the plan sponsor must amend the plan to reduce benefits. If the plan nevertheless becomes insolvent, the plan sponsor must suspend certain benefits that cannot be paid. If available resources are inadequate to pay guaranteed benefits, the plan sponsor must request financial assistance from PBGC.

The regulation requires a plan sponsor to give notices of benefit reduction, notices of insolvency, and notices of insolvency benefit level to PBGC and to participants and beneficiaries and, if necessary, to apply to PBGC for financial assistance. A plan sponsor can combine the notice of insolvency and the notice of insolvency benefit level.

PBGC uses the information it receives to make determinations required by ERISA, to identify and estimate the cash needed for financial assistance to terminated plans, and to verify the appropriateness of financial assistance payments. Plan participants and beneficiaries use the information to make personal financial decisions.

PBGC estimates that plan sponsors of terminated plans each year will file with PBGC 1 notice of benefit reduction, 7 notices of insolvency, 3 combined notices of insolvency and insolvency benefit level, and 5 notices of insolvency benefit level. PBGC also estimates that plan sponsors each year

will file initial requests for financial assistance for 10 plans and will submit 425 non-initial applications for financial assistance. The estimated annual burden of the collection of information is 241 hours and $420,400.

Issued in Washington, DC.

Hilary Duke,

Assistant General Counsel for Regulatory Affairs, Pension Benefit Guaranty Corporation.

[FR Doc. 2022–04784 Filed 3–7–22; 8:45 am]

BILLING CODE 7709–02–P

RAILROAD RETIREMENT BOARD

Sunshine Act Meetings

TIME AND DATE: 10:00 a.m., March 23, 2022.

PLACE: Members of the public wishing to attend the meeting must submit a written request at least 24 hours prior to the meeting to receive dial-in information. All requests must be sent to *SecretarytotheBoard@rrb.gov.*

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

(1) Re-Entry Committee Briefing: Re-entry updates, Testing updates
(2) SCOTUS Wisconsin Central Update

CONTACT PERSON FOR MORE INFORMATION: Stephanie Hillyard, Secretary to the Board, (312) 751–4920.

Authority 5 U.S.C. 552b.

Dated: March 4, 2022.

Stephanie Hillyard,

Secretary to the Board.

[FR Doc. 2022–05007 Filed 3–4–22; 4:15 pm]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–261, OMB Control No. 3235–0274]

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 17Ad–11

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 17Ad–11 (17 CFR 240.17Ad–11), under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Rule 17Ad–11 requires every registered recordkeeping transfer agent to report certain information to issuers and its appropriate regulatory agency in the event that the aggregate market value of an ''aged record difference'' exceeds certain thresholds. A ''record difference'' occurs when the number of shares or principal dollar amount of securities in an issuer's records do not equal those in the master securityholder file as indicated, for instance, on certificates presented to the transfer agent for purchase, redemption or transfer. An ''aged record difference'' is a record difference that has existed for more than 30 calendar days. In addition, the rule requires every registered recordkeeping transfer agent to report certain information to issuers and its appropriate regulatory agency concerning buy-ins of all issues for which it acts as recordkeeping transfer agent. Further, the rule requires every registered recordkeeping transfer agent to report to its appropriate regulatory agency when it has failed to post certificate detail to the master securityholder file within five business days of the time required by Rule 17Ad–10 (17 CFR 240.17Ad–10). Transfer agents must also maintain a copy of any report required under Rule 17Ad–11 for a period of not less than three years following the date of the report, the first year in an easily accessible place.

Because the information required by Rule 17Ad–11 is already available to transfer agents, any collection burden for small transfer agents is minimal. Based on a review of the number of Rule 17Ad–11 reports the Commission, the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation (collectively, the ''appropriate regulatory agencies'') received since 2015, the Commission staff estimates that 8 respondents will file a total of approximately 10 reports annually. The Commission staff estimates that, on average, each report can be completed in 30 minutes. Therefore, the total annual time burden for the entire transfer agent industry is approximately 5 hours (0.5 hours × 10 reports). Assuming an average hourly rate of $72 for a compliance staff employee at a transfer agent, the average total internal cost of compliance for each report is $36. The total annual internal cost of compliance for the estimated 8 respondents is thus approximately $360 ($36 per report × 10 reports).

The retention period for the recordkeeping requirement under Rule 17Ad–11 is not less than three years following the date of a report prepared pursuant to the rule. The recordkeeping requirement under Rule 17Ad–11 is mandatory to assist the Commission and other regulatory agencies in monitoring transfer agents who are not performing their functions promptly and accurately. This rule does not involve the collection of confidential information.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing by May 9, 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: March 2, 2022.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–04792 Filed 3–7–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–136, OMB Control No. 3235–0157]

Proposed Collection; Comment Request; Extension: Form N–8F

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities

and Exchange Commission (the ''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Form N–8F (17 CFR 274.218) is the form prescribed for use by registered investment companies in certain circumstances to request orders of the Commission declaring that the registration of that investment company cease to be in effect. The form requests information about: (i) The investment company's identity, (ii) the investment company's distributions, (iii) the investment company's assets and liabilities, (iv) the events leading to the request to deregister, and (v) the conclusion of the investment company's business. The information is needed by the Commission to determine whether an order of deregistration is appropriate.

The Form takes approximately 5.2 hours on average to complete. It is estimated that approximately 143 investment companies file Form N–8F annually, so the total annual burden for the form is estimated to be approximately 744 hours. The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act and is not derived from a comprehensive or even a representative survey or study.

The collection of information on Form N–8F is not mandatory. The information provided on Form N–8F is not kept confidential. 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.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication by May 9, 2022.

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: March 3, 2022.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–04892 Filed 3–7–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 34523; File No. 812–15234]

Onex Falcon Direct Lending BDC Fund, et al.

March 2, 2022.

AGENCY: Securities and Exchange Commission (''Commission'' or ''SEC'').

ACTION: Notice.

Notice of application for an order (''Order'') under sections 17(d) and 57(i) of the Investment Company Act of 1940 (the ''Act'') and rule 17d–1 under the Act to permit certain joint transactions otherwise prohibited by sections 17(d) and 57(a)(4) of the Act and rule 17d–1 under the Act.

Summary of Application: Applicants request an order to permit certain business development companies (''BDCs'') and closed-end management investment companies to co-invest in portfolio companies with each other and with certain affiliated investment entities.

Applicants: Onex Falcon Direct Lending BDC Fund, Onex Credit Lending Partners I LP, Onex Senior Credit Fund, L.P., Onex Senior Credit II, LP, Onex Capital Solutions (Luxembourg), SCSp, Onex Capital Solutions, LP, Onex Credit High Yield Bond Fund, LP, Onex Credit HY LP, Onex Credit Proprietary Fund LP, Onex Senior Loan Opportunity Fund I, LP, Onex Structured Credit Opportunities Fund I, LP, P–O Senior Loan Opportunity Fund, LP, OCP CLO 2013–4, Ltd., OCP CLO 2014–5, Ltd., OCP CLO 2014–6, Ltd., OCP CLO 2014–7, Ltd., OCP CLO 2015–9, Ltd., OCP CLO 2015–10, Ltd., OCP CLO 2016–11, Ltd., OCP CLO 2016–12, Ltd., OCP CLO 2017–13, Ltd., OCP CLO 2017–14, Ltd., OCP CLO 2018–15, Ltd., OCP CLO 2019–16, Ltd., OCP CLO 2019–17, Ltd., OCP CLO 2020–8R, Ltd., OCP CLO 2020–18, Ltd., OCP CLO 2020–19, Ltd., OCP CLO 2020–20, Ltd., OCP CLO 2021–21, Ltd., OCP EURO CLO 2017–1 Designated Activity Company, OCP EURO CLO 2017–2 Designated Activity Company, OCP EURO CLO 2019–3 Designated Activity Company, OCP EURO CLO 2020–4 Designated Activity Company, Falcon Strategic Partners IV, LP, Falcon Strategic Partners V, LP, Falcon Structured Equity Partners, LP, Falcon Private Credit Opportunities VI, LP, Onex Falcon Senior Credit Solutions (Luxembourg), SCSp, Onex Credit Partners, LLC, Onex Falcon Investment Advisors, LLC, Onex Credit Management LLC, Onex Credit Partners Europe LLP, Onex Credit Finance Corporation, and Onex Credit Finance II Corporation.

Filing Dates: The application was filed on June 2, 2021, and amended on October 5, 2021, and January 4, 2022.

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing on any application by emailing the SEC's Secretary at *Secretarys-Office@sec.gov* and serving the Applicants with a copy of the request by email, if an email address is listed for the relevant Applicant below, or personally or by mail, if a physical address is listed for the relevant Applicant below. Hearing requests should be received by the Commission by 5:30 p.m. on, March 28, 2022, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission's Secretary at *Secretarys-Office@sec.gov.*

ADDRESSES: The Commission: *Secretarys-Office@sec.gov.* Applicants: William J. Kennedy, *wkennedy@falconinvestments.com,* Rajib Chanda, *Rajib.Chanda@stblaw.com,* and Steven Grigoriou, *Steven.Grigoriou@stblaw.com.*

FOR FURTHER INFORMATION CONTACT: Jessica D. Leonardo, Senior Counsel, or Lisa Reid Ragen, Branch Chief, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: For Applicants' representations, legal analysis, and conditions, please refer to Applicants' second amended and restated application, dated January 4, 2022, which may be obtained via the Commission's website by searching for the file number at the top of this document, or for an Applicant using the Company name search field, on the SEC's EDGAR system. The SEC's EDGAR system may be searched at, at

http://www.sec.gov/edgar/searchedgar/legacy/companysearch.html. You may also call the SEC's Public Reference Room at (202) 551–8090.

For the Commission, by the Division of Investment Management, under delegated authority.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–04816 Filed 3–7–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–122, OMB Control No. 3235–0111]

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:
Form T–2

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Form T–2 (17 CFR 269.2) is a statement of eligibility of an individual trustee under the Trust Indenture Act of 1939. The information is used to determine whether the individual is qualified to serve as a trustee under the indenture. Form T–2 takes approximately 9 hours per response to prepare and is filed by 9 respondents. We estimate that 25% of the 9 burden hours (2 hours per responses) is prepared by the filer for a total reporting burden of 18 hours (2 hours per response × 9 responses).

Written comments are invited on: (a) Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication by May 9, 2022.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Please direct your written comment 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: March 2, 2022.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–04798 Filed 3–7–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–344, OMB Control No. 3235–0391]

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:
Form T–6

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Form T–6 (17 CFR 269.9) is an application for eligibility and qualification for a foreign person or corporation under the Trust Indenture Act of 1939 (15 U.S.C. 77aaa *et seq.*). Form T–6 provides the basis for determining whether a foreign person or corporation is eligible to serve as a trustee for qualified indenture. Form T–6 takes approximately 17 burden hours per response and is filed by approximately one respondent annually. We estimate that 25% of the 17 hours (4.25 hours) is prepared by the filer for an annual reporting burden of 4 hours (4.25 hours per response × 1 response).

Written comments are invited on: (a) Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication by May 9, 2022.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Please direct your written comment 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: March 3, 2022.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–04890 Filed 3–7–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–291, OMB Control No. 3235–0328]

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:
Form ID

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Form ID (OMB Control No. 3235–0328; SEC File No. 270–291) is used by companies and other entities to apply for identification numbers and passwords used in conjunction with the EDGAR electronic filing system. The information provided on Form ID is

essential to the security of the EDGAR system. Form ID must be filed every time a registrant or other person obtains or changes an identification number. Form ID is filed by individuals, companies or other for-profit organizations that are required to file electronically. We estimate approximately 48,493 registrants file Form ID and it takes approximately an estimated 0.15 hours per response for a total annual burden of 7,274 hours.

Written comments are invited on: (a) Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication by May 8, 2022.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Please direct your written comment 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: March 2, 2022.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–04796 Filed 3–7–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–123, OMB Control No. 3235–0105]

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:
Form T–3

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for approval.

Form T–3 (17 CFR 269.3) is an application for qualification of an indenture under the Trust Indenture Act of 1939 (15 U.S.C. 77aaa *et seq.*). The information provided under Form T–3 is used by the Commission to determine whether to qualify an indenture relating to an offering of debt securities that is not required to be registered under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*). Form T–3 takes approximately 43 hours per response to prepare and is filed by 11 respondents. We estimate that 25% of the 43 burden hours (11 hours per response) is prepared by the filer for a total reporting burden of 121 hours (11 hours per response × 11 responses).

Written comments are invited on: (a) Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication by May 9, 2022.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Please direct your written comment 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: March 2, 2022.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–04799 Filed 3–7–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–357, OMB Control No. 3235–0404]

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:
Form F–80

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Form F–80 (17 CFR 239.41) is a registration form used by large, publicly-traded Canadian issuers to register securities that will be offered in a business combination, exchange offer or other reorganization requiring the vote of shareholders of the participating companies. The information collected is intended to make available material information upon which shareholders and investors can make informed voting and investment decisions. Form F–80 takes approximately 2 hours per response and is filed by approximately 4 issuers for a total annual burden of 8 hours (2 hours per response × 4 responses). The estimated burden of 2 hours per response was based upon the amount of time necessary to compile the registration statement using the existing Canadian prospectus plus any additional information required by the Commission.

Written comments are invited on: (a) Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication by May 9, 2022.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Please direct your written comment 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: March 2, 2022.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–04795 Filed 3–7–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–549, OMB Control No. 3235–0610]

Proposed Collection; Comment Request; Extension: Rule 248.30

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 248.30 (17 CFR 248.30) under Regulation S–P is titled ''Procedures to Safeguard Customer Records and Information; Disposal of Consumer Report Information.'' Rule 248.30 (the ''safeguard rule'') requires brokers, dealers, investment companies, and investment advisers registered with the Commission (''registered investment advisers'') (collectively ''covered institutions'') to adopt written policies and procedures for administrative, technical, and physical safeguards to protect customer records and information. The safeguards must be reasonably designed to ''insure the security and confidentiality of customer records and information,'' ''protect against any anticipated threats or hazards to the security and integrity'' of those records, and protect against unauthorized access to or use of those records or information, which ''could result in substantial harm or inconvenience to any customer.'' The safeguard rule's requirement that covered institutions' policies and procedures be documented in writing constitutes a collection of information and must be maintained on an ongoing basis. This requirement eliminates uncertainty as to required employee actions to protect customer records and information and promotes more systematic and organized reviews of safeguard policies and procedures by institutions. The information collection also assists the Commission's examination staff in assessing the existence and adequacy of covered institutions' safeguard policies and procedures.

We estimate that as of the end of 2020, there are 3,681 broker-dealers, 2,840 investment companies, and 13,788 investment advisers registered with the Commission, for a total of 20,309 covered institutions. We believe that all of these covered institutions have already documented their safeguard policies and procedures in writing and therefore will incur no hourly burdens related to the initial documentation of policies and procedures. Although existing covered institutions would not incur any initial hourly burden in complying with the safeguards rule, we expect that newly registered institutions would incur some hourly burdens associated with documenting their safeguard policies and procedures. We estimate that approximately 1,375 broker-dealers, investment companies, or investment advisers register with the Commission annually. However, we also expect that approximately 20% of these newly registered covered institutions, or 372 institutions, are affiliated with an existing covered institution, and will rely on an organization-wide set of previously documented safeguard policies and procedures created by their affiliates. We estimate that these affiliated newly registered covered institutions will incur a significantly reduced hourly burden in complying with the safeguards rule, as they will need only to review their affiliate's existing policies and procedures, and identify and adopt the relevant policies for their business. Therefore, we expect that newly registered covered institutions with existing affiliates will incur an hourly burden of approximately 15 hours in identifying and adopting safeguard policies and procedures for their business, for a total hourly burden for all affiliated new institutions of 5,580 hours. We expect that half of this time would be incurred by inside counsel at an hourly rate of $455, and half would be by a compliance officer at an hourly rate of $400, for a total cost of $2,385,450.

Finally, we expect that the 1,003 newly registered entities that are not affiliated with an existing institution will incur a significantly higher hourly burden in reviewing and documenting their safeguard policies and procedures. We expect that virtually all of the newly registered covered entities that do not have an affiliate are likely to be small entities and are likely to have smaller and less complex operations, with a correspondingly smaller set of safeguard policies and procedures to document, compared to other larger existing institutions with multiple affiliates. We estimate that it will take a typical newly registered unaffiliated institution approximately 60 hours to review, identify, and document their safeguard policies and procedures, for a total of 60,180 hours for all newly registered unaffiliated entities. We expect that half of this time would be incurred by inside counsel at an hourly rate of $455, and half would be by a compliance officer at an hourly rate of $400, for a total cost of $25,726,950.

Therefore, we estimate that the total annual hourly burden associated with the safeguards rule is 65,760 hours at a total hourly cost of $28,112,400. We also estimate that all covered institutions will be respondents each year, for a total of 20,309 respondents.

These estimates of average burden hours are made solely for the purposes of the Paperwork Reduction Act. 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 control number. The safeguard rule does not require the reporting of any information or the filing of any documents with the Commission. The collection of information required by the safeguard rule is mandatory.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication by May 9, 2022.

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: March 3, 2022.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–04891 Filed 3–7–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–105, OMB Control No. 3235–0121]

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:
Form 18

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Form 18 (17 CFR 249.218) is a registration form used by a foreign government or political subdivision to register securities for listing on a U.S. exchange. The information collected is intended to ensure that the information required by the Commission to be filed permits verification of compliance with securities law requirements and assures the public availability of the information. Form 18 takes approximately 8 hours per response and is filed by approximately 5 respondents for a total of 40 annual burden hours (8 hours per response × 5 responses).

Written comments are invited on: (a) Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication by May 9, 2022.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Please direct your written comment 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: March 2, 2022.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–04794 Filed 3–7–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–94351; File No. 4–533]

Joint Industry Plan; Notice of Filing of Amendment No. 4 to the National Market System Plan for the Selection and Reservation of Securities Symbols

March 2, 2022.

Pursuant to Section 11A of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 608 thereunder,[2] notice is hereby given that on February 11, 2022, The Nasdaq Stock Market LLC (''Nasdaq''), on behalf of participants to the National Market System Plan for the Selection and Reservation of Securities Symbols (''Symbology Plan'' or ''Plan'') filed with the Securities and Exchange Commission (''Commission'') a proposal to amend the Symbology Plan.[3] The proposal represents the fourth substantive amendment to the Plan (''Amendment'') and reflects changes unanimously approved by the Plan participants (''Participants'').[4] The Amendment proposes to, among other things, eliminate certain Plan processor costs, release perpetual reservations, increase the number of limited-time symbol reservations, modify the waitlist provisions, and clarify the portability of symbol reservations.

The proposed Amendment has been filed by the Participants pursuant to Rule 608(b)(2) under Regulation NMS.[5] The Commission is publishing this notice to solicit comments on the proposed Amendment from interested persons. Sections I and II contain statements that were prepared and submitted to the Commission by the Participants about the purpose of the Amendment, along with information pursuant to Rule 608(a) under the Act.

I. Rule 608(a)

A. Purpose of the Amendment

Since the Symbology Plan was originally approved,[6] it has been modified several times to add additional participants.[7] The plan participants now

[1] 15 U.S.C. 78k–1(a)(3).

[2] 17 CFR 242.608.

[3] The Plan was created to enhance the effectiveness and efficiency of the national market system and to provide for fair competition between the self-regulatory organizations that list equity securities by establishing a uniform system for the selection and reservation of securities symbols. The Plan, among other things, sets forth the process for securing perpetual and limited-time reservations, the use of a waiting list, the right to reuse a symbol and the ability to request the release of a symbol.

[4] The Plan Participants are BOX Exchange LLC, Cboe BYX Exchange, Inc., Cboe BZX Exchange, Inc., Cboe C2 Exchange, Inc., Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc., Chicago Board Options Exchange, Incorporated, Financial Industry Regulatory Authority, Investors Exchange LLC, Long-Term Stock Exchange, Inc., MEMX LLC, Miami International Securities Exchange, LLC, MIAX Pearl, LLC, Nasdaq BX, Inc., Nasdaq ISE, LLC, Nasdaq PHLX LLC, Nasdaq, New York Stock Exchange LLC, NYSE American LLC, NYSE Arca, Inc., NYSE Chicago, Inc., and NYSE National, Inc.

[5] 17 CFR 242.608(b)(2).

[6] On November 6, 2008, the Commission approved the Symbology Plan that was originally proposed by the Chicago Stock Exchange, Inc. (''CHX''), The Nasdaq Stock Market, Inc. (n/k/a The Nasdaq Stock Market LLC) (''Nasdaq''), National Association of Securities Dealers, Inc. (''NASD'') (n/k/a Financial Industry Regulatory Authority, Inc. (''FINRA'')), National Stock Exchange, Inc. (''NSX'') (n/k/a NYSE National, Inc. (''NYSE National'')), and Philadelphia Stock Exchange, Inc. (n/k/a Nasdaq PHLX LLC (''Phlx'')), subject to certain changes. *See* Securities Exchange Act Release No. 58904, 73 FR 67218 (November 13, 2008) (File No. 4–533).

[7] On November 18, 2008, ISE filed with the Commission an amendment to the Plan to add ISE as a member to the Plan. *See* Securities and Exchange Act Release No. 59024 (November 26, 2008), 73 FR 74538 (December 8, 2008) (File No. 4–533). On December 22, 2008, NYSE, NYSE Arca, and NYSE Alternext (n/k/a NYSE American) (''NYSE Group Exchanges''), and Cboe filed with the Commission amendments to the Plan to add the NYSE Group Exchanges and Cboe as members to the Plan. *See* Securities Exchange Act Release No. 59162 (December 24, 2008), 74 FR 132 (January 2, 2009) (File No. 4–533). On December 24, 2008, BSE (n/k/a BX) filed with the Commission an amendment to the Plan to add BSE as a member to the Plan. *See* Securities Exchange Act Release No. 59187 (December 30, 2008), 74 FR 729 (January 7, 2009) (File No. 4–533). On September 30, 2009, BATS (n/k/a CboeBZX) filed with the Commission an amendment to the Plan to add BATS as a member to the Plan. *See* Securities Exchange Act Release No. 60856 (October 21, 2009), 74 FR 55276 (October 27, 2009) (File No. 4–533). On July 7, 2010, EDGA (n/k/a CboeEDGA) and EDGX (n/k/a CboeEDGX) filed with the Commission an amendment to the Plan to add EDGA and EDGX, each as a party to the Symbology Plan. *See* Securities Exchange Act Release No. 62573 (July 26, 2010), 75 FR 45682 (August 3, 2010) (File No. 4–533). On May 7, 2012, BOX filed with the

Continued

seek to amend the Symbology Plan as set forth below, and attached [sic] hereto as *Exhibit A.*

Plan Processor Costs (Section I(c))

The participants seek to amend Section I(c) to require new parties to provide a signed copy of the Symbology Plan to the Commission and become a party to any contract required pursuant to Section III with the Processor. These changes are intended to codify existing practices.

In addition, the participants seek to eliminate the costs of entry for new participants. The Processor found that in recent years, the calculated pro rata amounts were de minimus or zero, and the participants are therefore proposing this change to help modernize the process and remove burdensome administrative tasks.

Perpetual Reservations (Section IV(b)(1)(A) and (d))

The parties seek amend Section IV(b)(1)(A) to release their list of perpetual reservations (''List A reservations''), effective 30 calendar days following the date of the Commission's approval of the amendment to the Symbology Plan, except for those symbols which are used only for the purpose of system testing (''Test Symbols''). No new List A reservations shall be made, and parties shall not maintain a List A reservation, except for the purpose of reserving Test Symbols. This change is intended to supplement the changes described below to require all symbol reservations to be made at the request of an issuer in connection with a potential listing. The parties also seek to amend Sections IV(b)(1)(B), (b)(2)(F) and (d) to eliminate the references to List A reservations.

List B Reservations (Section IV(b)(1)(B))

The plan participants seek to amend the Symbology Plan to increase the number of limited-time symbol reservations (''List B reservations'') that a party to the Symbology Plan can reserve from 1,500 to 2,500 for symbols using one, two or three characters, on the one hand, and for symbols using four or five characters, on the other hand, in Section IV(b)(1)(B).

The increase in the number of limited-time symbol reservations is necessary given the substantial increase in the number of IPOs and other new listings. For example, one data source indicates that the number of IPOs was at a 20 year low in 2008 when the Symbology Plan was adopted, with 62 IPOs that year. In contrast, in 2020 there were 480 IPOs, and in 2021 there were 1,058 IPOs, representing a 220% increase year-over-year.[8] Moreover, accompanying this increase in IPOs is a significant increase in the number of applications for new company listings and in prospects considering a public listing, each of which may require a symbol reservation.

In addition, an increase in the popularity of SPACs has necessitated the reservation of more symbols. Specifically, before a SPAC is listed a symbol is reserved for the SPAC while, at the same time, plan participants also reserve symbols for the operating companies that may eventually become the target of a SPAC. In 2021, there were 613 SPAC IPOs, compared to 248 SPAC IPOs in 2020, representing a 247% increase.[9]

As such, while at the time of the Symbology Plan's adoption in 2008 it appeared sufficient to allow 1,500 one, two or three character reservations, on the one hand, and 1,500 four or five character reservations, on the other hand, those limits are no longer appropriate given current activity.

The plan participants also seek to make certain other amendments to Section IV(b)(1)(B) of the Symbology Plan in connection with a symbol reservation. Specifically, the parties propose to:

1. Add a new subclause (i) specifying that no party shall make a limited-time symbol reservation (''List B reservation'') request with respect to a particular symbol unless said party has a reasonable basis to believe it will utilize such symbol within the next 24 months.

2. Add a new subclause (ii) specifying that each List B request made by a party for non-exchange traded products must be made in connection with the potential listing of a security on such party at the request of the issuer (or an agent of the issuer) of such security, and the reserving party must confidentially indicate the potential listing in the Symbol Reservation System and maintain documentation demonstrating that it has a reasonable basis to believe it will utilize such symbol for the listing of such security within the next 24 months.

3. Add a new subclause (iii) specifying that all List B reservation requests made by a party for exchange traded products must be made at the request of the issuer (or an agent of the issuer) of such security.

4. Add a new subclause (iv) specifying that the party shall release the symbol if it no longer reasonably believes that the issuer will list a security using the symbol.

5. Add a new subclause (v) specifying that a party shall not reserve more than one symbol per potential security listing that is not an exchange traded product. For the avoidance of doubt, if an issuer has multiple potential securities (*e.g.,* an issuer of exchange-traded products or an operating company listing several classes of securities), the party may reserve multiple symbols at the request of the issuer so long as all other requirements set forth in Section IV(b)(1)(B) are met.

A corresponding clarifying change is proposed to Section IV(b)(3)(C) to clarify that List B reservation requests must be submitted in accordance with subclauses (i) to (v) of Section IV(b)(1)(B). The above changes are intended to ensure that each party reserves a symbol in connection with a potential listing, and confidentially indicates the company's name in the system. In the case of exchange-traded products, subclauses (iii) and (v) will allow exchanges to reserve multiple symbols at the request of an issuer listing multiple potential securities. These issuers commonly issue more than one product with different root symbols, unlike corporate issuers who rely on the same root symbol even where they have multiple classes.

Clarify Provisions That Only Applied to the Original Plan (Sections IV(b)(1–3) and (c))

The participants seek to make certain clarifications in Sections IV(b)(1–3) and (c)(1) of the Symbology Plan to update outdated language regarding reservations prior to the original effective date of the Symbology Plan (November 6, 2008). These changes are intended to clarify that certain provisions only applied prior to

Commission an amendment to the Plan to add BOX as a member to the Plan. *See* Securities and Exchange Act Release No. 66957 (May 10, 2012), 77 FR 28904 (May 16, 2012). On November 4, 2016, IEX filed with the Commission an amendment to the Plan to add IEX as a member to the Plan. *See* Securities Exchange Act Release No. 79422 (November 29, 2016), 81 FR 87645 (December 5, 2016). On February 26, 2018, MIAX filed with the Commission an amendment to the Plan to add MIAX as a member to the Plan. *See* Securities Exchange Act Release No. 82885 (March 15, 2018), 83 FR 12430 (March 21, 2018). On October 17, 2019, LTSE filed with the Commission an amendment to the Plan to add LTSE as a member to the Plan. *See* Securities Exchange Act Release No. 87597 (November 22, 2019), 84 FR 65448 (November 27, 2019). On July 6, 2020, MEMX filed with the Commission an amendment to the Plan to add MEMX as a member to the Plan. *See* Securities Exchange Act Release No. 89419 (July 29, 2020), 85 FR 46767 (August 3, 2020).

[8] *See* Stock Analysis, *IPO Statistics,* available at: *https://stockanalysis.com/ipos/statistics/* (last accessed January 18, 2022).

[9] *See* Nasdaq, A Record Pace for SPACs in 2021, available at: *https://www.nasdaq.com/articles/a-record-pace-for-spacs-in-2021.*

November 6, 2008, and are not applicable thereafter. However, the parties would like to retain the outdated language in Section IV(b)(2) of the Symbology Plan to provide transparency to any future new participants.

Waitlist Provisions

The parties seek to amend the Symbology Plan to permit an exchange to be on the waitlist for a symbol that it has reserved for another company. This is intended to address scenarios in which an issuer listing on an exchange requests a symbol that another issuer has already reserved with the same exchange. For example, if two companies request that NYSE reserve the ticker symbol ''ABC,'' NYSE could reserve ''ABC'' for Company 1 and place itself on the waitlist for ''ABC'' for Company 2. If Company 1 no longer wants to use the symbol, NYSE can release the symbol to Company 2. These changes are reflected in Sections IV(c)(1) and IV(c)(3)).

Currently, the Symbol Reservation System does not allow an exchange to go on the waitlist for a symbol it has already reserved. The Processor informed the plan participants that it estimates it will not able to begin work on the tech changes required to implement this functionality until Q3 of 2022. In the meantime, the particpants [sic] propose an interim solution to informally allow a party to go on the waitlist with coordination from the other SROs:

1. NYSE reserves symbol ABC for Company 1.

2. A week later, NYSE receives a request to reserve symbol ABC for Company 2. NYSE emails the plan participants to notify them that NYSE has received another request for symbol ABC. The email would include the time of the issuer's request, the time of the email, the exchange requesting it, and any other information typically included in the Symbol Reservation System. An email template is attached [sic] as Exhibit B.

3. The email memorializes that Company 2 is now on the ''waitlist'' after Company 1 for symbol ABC. Each plan participant is responsible for reading and cataloging this email for its own records.

4. A few weeks later, Nasdaq goes on the Symbol Reservation System waitlist for symbol ABC for Company 3. Company 3 is now on the waitlist behind Company 1 and Company 2, according to the email records. However, in the Symbol Reservation System, Nasdaq would appear on the waitlist (for Company 3) immediately after NYSE (for Company 1).

5. A month later, Company 1 chooses to release the symbol, and Company 2 would like to reserve it. NYSE contacts Nasdaq and asks Nasdaq to remove itself from the Symbol Reservation System waitlist for Company 3, so that NYSE can go on the waitlist and re-reserve symbol ABC for Company 2.

Portability of Symbols (Section IV(f))

The participants seek to make certain clarifying amendments to Section IV(f) of the Symbology Plan to clarify that, as is generally consistent with current practice in accordance with the Symbology Plan, symbols are reserved for issuers in connection with a specific listing, and that those issuers can use a symbol reserved for their listing on any national securities exchange, including if an issuer wants to transfer to another exchange prior to listing.

Under the proposed amendment to subsection (1), if an SRO (a ''New SRO'') lists a security or product that previously was listed on another SRO (a ''Former SRO''), immediately prior to listing on the New SRO, the New SRO shall have the rights to that symbol unless, in the New SRO's sole discretion, it consents to the symbol being retained by the Former SRO, provided however, that such Former SRO shall not reuse that symbol to identify a new security or product unless the Former SRO, in its sole discretion, reasonably determines that such use would not cause investor confusion.

Under the proposed amendment to subsection (2), if an SRO reserves a symbol pursuant to subsection (b)(1)(B) for a specific security or product of an issuer, and the issuer of the security or product decides to list on a different SRO (the ''Listing SRO'') during the period that the reservation is in effect, the Listing SRO shall have the rights to that symbol unless, in the Listing SRO's sole discretion, it consents to the reserving SRO retaining the symbol on its reservation List B.

Other Amendments

The participants also seek to make certain clarifying amendments to the Symbology Plan to update the names of plan participants in Section I(a), update section references in Section IV(d), and correct minor typographical errors in Section III and IV(a).

B. Governing or Constituent Documents

Not applicable.

C. Implementation of Amendment

The proposed amendment will be implemented upon approval of the Commission.

D. Development and Implementation Phases

Not applicable.

E. Analysis of Impact on Competition

The amendment does not impose any burden on competition because it affects each member of the Symbology Plan in the same way.

F. Written Understanding or Agreements Relating to Interpretation of, or Participation in, Plan

Not applicable.

G. Approval by Sponsors in Accordance With Plan

Pursuant to Section VIII of the Symbology Plan, each of the participants to the Symbology Plan has authorized this amendment.

H. Description of Operation of Facility Contemplated by the Proposed Amendment

Not applicable.

I. Terms and Conditions of Access

Not applicable.

J. Method of Determination and Imposition, and Amount of, Fees and Charges

Not applicable.

K. Method and Frequency of Processor Evaluation

Not applicable.

L. Dispute Resolution

Not applicable.

II. Regulation NMS Rule 601(a)

A. Equity Securities for Which Transaction Reports Shall Be Required by the Plan

Not applicable.

B. Reporting Requirements

Not applicable.

C. Manner of Collecting, Processing, Sequencing, Making Available and Disseminating Last Sale Information

Not applicable.

D. Manner of Consolidation

Not applicable.

E. Standards and Methods Ensuring Promptness, Accuracy and Completeness of Transaction Reports

Not applicable.

F. Rules and Procedures Addressed to Fraudulent or Manipulative Dissemination

Not applicable.

G. Terms of Access to Transaction Reports

Not applicable.

H. Identification of Marketplace of Execution

Not applicable.

III. Solicitation of Comments

The Commission seeks comment on the Amendment. Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed Amendment is consistent with the Act and the rules and regulations thereunder applicable to national market system plans. 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 4–533 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 4–533. 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 Plan that are filed with the Commission, and all written communications relating to the Plan between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the Parties' principal offices. 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 4–533, and should be submitted on or March 29, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–04834 Filed 3–7–22; 8:45 am]

BILLING CODE 8011–01–P

[10] 17 CFR 200.30–3(a)(85).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–54, OMB Control No. 3235–0056]

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:
Form 8–A

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Form 8–A (17 CFR 249.208a) is a registration statement used to register a class of securities under Section 12(b) or Section 12(g) of the Securities Exchange Act of 1934 (15 U.S.C. 78*l*(b) and 78*l*(g)) (''Exchange Act''). Section 12(a) (15 U.S.C. 78*l*(a)) of the Exchange Act makes it unlawful for any member, broker, or dealer to effect any transaction in any security (other than an exempted security) on a national securities exchange unless such security has been registered under the Exchange Act (15 U.S.C. 78a *et seq.*). Exchange Act Section 12(b) establishes the registration procedures. Exchange Act Section 12(g) requires an issuer that is not a bank or bank holding company to register a class of equity securities (other than exempted securities) within 120 days after its fiscal year end if, on the last day of its fiscal year, the issuer has total assets of more than $10 million and the class of equity securities is ''held of record'' by either (i) 2,000 persons, or (ii) 500 persons who are not accredited investors. An issuer that is a bank or a bank holding company, must register a class of equity securities (other than exempted securities) within 120 days after the last day of its first fiscal year ended after the effective date of the JOBS Act if, on the last day of its fiscal year, the issuer has total assets of more than $10 million and the class of equity securities is ''held of record'' by 2,000 or more persons. Form 8–A takes approximately 3 hours to prepare and is filed by approximately 1,376 respondents for a total annual reporting burden of 4,128 hours (3 hours per response × 1,376 responses).

Written comments are invited on: (a) Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication by May 9, 2022.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Please direct your written comment 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: March 2, 2022.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–04793 Filed 3–7–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 34522; File No. 812–15136]

Jefferies Private Credit BDC Inc., et al.

March 2, 2022.

AGENCY: Securities and Exchange Commission (''Commission'' or ''SEC'').

ACTION: Notice.

Notice of application for an order under sections 17(d) and 57(i) of the Investment Company Act of 1940 (the ''Act'') and rule 17d–1 under the Act to

permit certain joint transactions otherwise prohibited by sections 17(d) and 57(a)(4) of the Act and rule 17d–1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain business development companies (''BDCs'') and closed-end management investment companies to co-invest in portfolio companies with each other and with certain affiliated investment entities.

APPLICANTS: Jefferies Private Credit BDC Inc., Jefferies Credit Management LLC, Jefferies Finance LLC, Jefferies Credit Partners LLC, Apex Credit Partners LLC, Apex Credit Holdings LLC, JFIN CLO 2012 Ltd., JFIN CLO 2013 Ltd., JFIN CLO 2015–II Ltd., JFIN CLO 2016 Ltd., JFIN CLO 2017 Ltd., JFIN CLO 2017–II Ltd., Apex Credit CLO 2018 Ltd., Apex Credit CLO 2018–II Ltd., Apex Credit CLO 2019 Ltd., Apex Credit CLO 2019–II Ltd., Apex Credit CLO 2020 Ltd., Apex Credit CLO 2021 Ltd., Jefferies Direct Lending Fund LP, Jefferies Direct Lending Fund SPE LLC, Jefferies Direct Lending Offshore Fund LP, Jefferies Direct Lending Offshore Fund B LP, Jefferies Direct Lending Offshore Fund C LP, Jefferies Direct Lending Offshore Fund SPE LLC, Jefferies Direct Lending Offshore Fund C SPE LLC, Jefferies Senior Lending LLC, JFIN Revolver CLO 2017–II Ltd., JFIN Revolver CLO 2017–III Ltd., JFIN Revolver CLO 2018 Ltd., JFIN Revolver CLO 2019 Ltd., JFIN Revolver CLO 2019–II Ltd., JFIN Revolver CLO 2020 Ltd., JFIN Revolver Funding 2021 Ltd., JFIN Revolver CLO 2021–II Ltd., JFIN Revolver Funding 2021–III Ltd., JFIN Revolver Funding 2021–IV Ltd., JFIN Revolver CLO 2021–V Ltd., JFIN Revolver Fund, L.P., Massachusetts Mutual Life Insurance Company.

FILING DATES: The application was filed on June 18, 2020, and amended on October 22, 2020, August 3, 2021, December 10, 2021 and January 12, 2022.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing on any application by emailing the Commission's Secretary at *Secretarys-Office@sec.gov.* and serving the Applicants with a copy of the request by email, if an email address is listed for the relevant Applicant below, or personally or by mail, if a physical address is listed for the relevant Applicant below. Hearing requests should be received by the Commission by 5:30 p.m. on March 28, 2022, and should be accompanied by proof of service on the Applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission's Secretary at *Secretarys-Office@sec.gov.*

ADDRESSES: The Commission: *Secretarys-Office@sec.gov.* Applicants: Daniel M. Duval, Jefferies Finance LLC, *dduval@jefferies.com,* Michael R. Rosella, *mikerosella@paulhastings.com,* Frank Lopez, *franklopez@paulhastings.com,* Vadim Avdeychik, *vadimavdeychik@paulhastings.com,* Rajib Chanda, *rajib.chanda@stblaw.com,* Ryan Brizek, *ryan.brizek@stblaw.com.*

FOR FURTHER INFORMATION CONTACT: Barbara T. Heussler, Senior Counsel, or Trace W. Rakestraw, Branch Chief, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: For Applicants' representations, legal analysis, and conditions, please refer to Applicants' fourth amended and restated application, dated January 12, 2022, which may be obtained via the Commission's website by searching for the file number at the top of this document, or for an Applicant using the Company name search field on the SEC's EDGAR system. The SEC's EDGAR system may be searched at *http://www.sec.gov/edgar/searchedgar/legacy/companysearch.html.* You may also call the SEC's Public Reference Room at (202) 551–8090.

For the Commission, by the Division of Investment Management, under delegated authority.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–04815 Filed 3–7–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–057, OMB Control No. 3235–0057]

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:

Regulation 14C (Commission Rules 14c–1 through 14c–7 and Schedule 14C)

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Section 14(c) of the Securities Exchange Act of 1934 (the ''Exchange Act'') operates to require issuers that do not solicit proxies or consents from any or all of the holders of record of a class of securities registered under Section 12 of the Exchange Act and in accordance with the rules and regulations prescribed under Section 14(a) in connection with a meeting of security holders (including action by consent) to distribute to any holders that were not solicited an information statement substantially equivalent to the information that would be required to be transmitted if a proxy or consent solicitation were made. Regulation 14C (Exchange Act Rules 14c–1 through 14c–7 and Schedule 14C) (17 CFR 240.14c–1 through 240.14c–7 and 240.14c–101) sets forth the requirements for the dissemination, content and filing of the information statement. We estimate that Schedule 14C takes approximately 132.058 hours per response and will be filed by approximately 569 issuers annually. In addition, we estimate that 75% of the 132.058 hours per response (99.044 hours) is prepared by the issuer for an annual reporting burden of 56,356 hours (99.044 hours per response × 569 responses).

Written comments are invited on: (a) Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication by May 9, 2022.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Please direct your written comment 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: March 2, 2022.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–04802 Filed 3–7–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–258, OMB Control No. 3235–0268]

Proposed Collection; Comment Request; Extension: Rule 2a–7

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 2a–7 (17 CFR 270.2a–7) under the Investment Company Act of 1940 (15 U.S.C. 80a) (the ''Act'') governs money market funds. Money market funds are open-end management investment companies that differ from other open-end management investment companies in that they seek to maintain a stable price per share, usually $1.00. The rule exempts money market funds from the valuation requirements of the Act, and, subject to certain risk-limiting conditions, permits money market funds to use the ''amortized cost method'' of asset valuation or the ''penny-rounding method'' of share pricing.

Rule 2a–7 also imposes certain recordkeeping and reporting obligations on money market funds. The board of directors of a money market fund, in supervising the fund's operations, must establish written procedures designed to stabilize the fund's net asset value (''NAV''); establish written procedures to test periodically the ability of the fund to maintain a stable NAV based on certain hypothetical events (''stress testing''); review, revise, and approve written procedures to stress test a fund's portfolio; and create a report to the fund board documenting the results of stress testing. The board must also adopt guidelines and procedures relating to certain responsibilities it delegates to the fund's investment adviser. These procedures and guidelines typically address various aspects of the fund's operations. The fund must maintain and preserve for six years a written copy of both these procedures and guidelines. The fund also must maintain and preserve for six years a written record of the board's considerations and actions taken in connection with the discharge of its responsibilities, to be included in the board's minutes, including determinations to impose any liquidity fees or temporary suspension of redemptions. In addition, the fund must maintain and preserve for three years written records of certain credit risk analyses, evaluations with respect to securities subject to demand features or guarantees, evaluations with respect to asset-backed securities not subject to guarantees, and determinations with respect to adjustable rate securities and asset-backed securities. If the board takes action with respect to defaulted securities, events of insolvency, or deviations in share price, the fund must file with the Commission an exhibit to Form N–CR describing the nature and circumstances of the action. If any portfolio security fails to meet certain eligibility standards under the rule, the fund also must identify those securities in an exhibit to Form N–CR. After certain events of default or insolvency relating to a portfolio security, the fund must notify the Commission of the event and the actions the fund intends to take in response to the situation.

A fund must also post certain periodic information on the its website including disclosure of portfolio holdings, disclosure of daily and weekly liquid assets and net shareholder flow, disclosure of daily current NAV, and disclosures of financial support received by the fund, the imposition and removal of liquidity fees, and the suspension and resumption of fund redemptions. Lastly, for funds that elect to be retail funds, they must create written policies and procedures reasonably designed to limit all beneficial owners of the fund to natural persons.

The recordkeeping requirements in rule 2a–7 are designed to enable Commission staff in its examinations of money market funds to determine compliance with the rule, as well as to ensure that money market funds have established procedures for collecting the information necessary to make adequate credit reviews of securities in their portfolios. The reporting requirements of rule 2a–7 are intended to assist Commission staff in overseeing money market funds and reduce the likelihood that a fund is unable to maintain a stable NAV.

Commission staff estimates that there are 320 money market funds (80 fund complexes), all of which are subject to rule 2a–7. Commission staff further estimates that there will be approximately 10 new money market funds established each year. Commission staff estimates that rule 2a–7 contains the following collection of information requirements:

- Record of credit risk analyses, and determinations regarding adjustable rate securities, asset-backed securities, asset-backed securities not subject to guarantees, securities subject to a demand feature or guarantee, and counterparties to repurchase agreements. Commission staff estimates a total annual hour burden for 320 funds to be 260,440 hours.
- Establishment of written procedures designed to stabilize NAV and guidelines and procedures for board delegation of authority. Commission staff estimates a total annual hour burden for 10 new money market funds to be 155 hours.
- Board review of procedures and guidelines of any investment adviser or officers to whom the fund's board has delegated responsibility under rule 2a–7 and amendment of such procedures and guidelines. Commission staff estimates a total annual hour burden for 80 funds to be 400 hours.
- Records of the board's determination for imposing any liquidity fees or temporary suspension of redemptions. Commission staff estimates a total annual hour burden for 2 funds to be 14 hours.
- Records of the board's determinations and actions related to failure of a security to meet certain eligibility standards or an event of default or insolvency. Commission staff estimates a total annual hour burden for 20 funds to be 50 hours.
- Establishment of written procedures to test periodically the ability of the fund to maintain a stable NAV per share based on certain hypothetical events (''stress testing''). Commission staff estimates a total annual hour burden for 10 new money market funds to be 220 hours.
- Review, revise, and approve written procedures to stress test a fund's portfolio. Commission staff estimates a total annual hour burden for 80 fund complexes to be 960 hours.
- Reports to fund boards on the results of stress testing. Commission staff estimates a total annual hour

burden for 80 fund complexes to be 4,000 hours.

• Website disclosures of portfolio holdings, of daily and weekly liquid assets and net shareholder flow, of daily current NAV, and disclosures of financial support received by the fund, the imposition and removal of liquidity fees and the suspension and resumption of fund redemptions. Commission staff estimates a total annual hour burden for 320 funds to be 27,251 hours.

• For funds electing retail fund status, written policies and procedures limiting all beneficial owners of the fund to natural persons. Commission staff estimates a total annual hour burden for 2 funds to be 26 hours.

Thus, the Commission estimates the total annual burden of the rule's information collection requirements is 293,516 hours.

The estimated total annual burden is being decreased from 337,328 hours to 293,516 hours. This net decrease of 43,812 hours is attributable to a combination of factors, including a decrease in the number of money market funds and fund complexes, and updated information from money market funds regarding hourly burdens, including revised staff estimates of the burden hours required to comply with rule 2a–7.

Commission staff estimates that in addition to the costs described in section 12, money market funds will incur costs to preserve records, as required under rule 2a–7.[1] These costs will vary significantly for individual funds, depending on the amount of assets under fund management and whether the fund preserves its records in a storage facility in hard copy or has developed and maintains a computer system to create and preserve compliance records.[2] Commission staff estimates that the amount an individual fund may spend ranges from $100 per year to $300,000. Based on a cost of $0.0051295 per dollar of assets under management for small funds, $0.0005041 per dollar assets under management for medium funds, and $0.0000009 per dollar of assets under management for large funds, the staff estimates compliance with the record storage requirements of rule 2a–7 costs the fund industry approximately $33.0 million per year.[3]

Based on responses from individuals in the money market fund industry, the staff estimates that some of the largest fund complexes have created computer programs for maintaining and preserving compliance records for rule 2a–7. Based on a cost of $0.0000132 per dollar of assets under management for large funds, the staff estimates that total annualized capital/startup costs range from $0 for small funds to $71.6 million for all large funds.[4] Commission staff further estimates that, even absent the requirements of rule 2a–7, money market funds would spend at least half of the amount for capital costs ($35.8 million)[5] and for record preservation ($16.5 million)[6] to establish and maintain these records and the systems for preserving them as a part of sound business practices to ensure diversification and minimal credit risk in a portfolio for a fund that seeks to maintain a stable price per share.

These estimates of burden hours and costs are made solely for the purposes of the Paperwork Reduction Act. The estimates are not derived from a comprehensive or even a representative survey or study of Commission rules.

The collections of information required by rule 2a–7 are necessary to obtain the benefits described above. Notices to the Commission will not be kept confidential. 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 control number.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication by May 9, 2022.

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: March 3, 2022.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–04884 Filed 3–7–22; 8:45 am]

BILLING CODE 8011–01–P

[1] A significant portion of the recordkeeping burden involves organizing information that the funds already collect when initially purchasing securities. In addition, when a money market fund analyzes a security, the analysis need not be presented in any particular format. Money market funds therefore have a choice of methods for maintaining these records that vary in technical sophistication and formality. Accordingly, the cost of preparing these documents may vary significantly among individual funds. The burden hours associated with filing reports to the Commission as an exhibit to Form N–CR are included in the PRA burden estimate for that form.

[2] The amount assets under management in individual money market funds ranges widely, varying from below $50 million to well over $150 billion. We further note that the assets under management figures were calculated based on net assets at the fund level and not the sum of the market values of the underlying funds.

[3] The staff estimated the annual cost of preserving the required books and records by identifying the annual costs incurred by several funds and then relating this total cost to the average net assets of these funds during the year. With a total of $328.5 million under management in small funds, $52.4 billion under management in medium funds and $5.4 trillion under management in large funds, the costs of preservation were estimated as follows: ((0.0051295 × $328.5 million) + (0.0005041 × $52.4 billion) + (0.0000009 × $5.4 trillion) = $33.0 million. For purposes of this PRA submission, Commission staff used the following categories for fund sizes: (i) Small—money market funds with $50 million or less in assets under management; (ii) medium—money market funds with more than $50 million up to and including $1 billion in assets under management; and (iii) large—money market funds with more than $1 billion in assets under management.

[4] This estimate is based on the following calculation: $0.0000132 × $5.4 trillion in assets under management for large funds = $71.6 million.

[5] This estimate is based on the following calculation: $71.6 million in capital costs/2 = $35.8 million.

[6] This estimate is based on the following calculation: $33.0 million in record preservation costs/2 = $16.5 million.

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–437, OMB Control No. 3235–0494]

Submission for OMB Review; Comment Request; Extension: Rule 30e–2

Notice is hereby given that, under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), (''Paperwork Reduction Act'') the Securities and Exchange Commission (the ''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for extension of the previously approved collection of information discussed below.

Rule 30e–2 (17 CFR 270.30e–2) under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) (''Investment Company Act'') requires registered unit investment trusts (''UITs'') that invest substantially all of their assets in shares of a management investment company (''fund'') to send their unitholders annual and semiannual reports containing financial information on the underlying company. Specifically, rule

30e–2 requires that the report contain all the applicable information and financial statements or their equivalent, required by rule 30e–1 under the Investment Company Act (17 CFR 270.30e–1) to be included in reports of the underlying fund for the same fiscal period. Rule 30e–1 requires that the underlying fund's report contain, among other things, the information that is required to be included in such reports by the fund's registration statement form under the Investment Company Act. The purpose of this requirement is to apprise current shareholders of the operational and financial condition of the UIT. Absent the requirement to disclose all material information in reports, investors would be unable to obtain accurate information upon which to base investment decisions and consumer confidence in the securities industry might be adversely affected. Requiring the submission of these reports to the Commission permits us to verify compliance with securities law requirements.

Rule 30e–2, however, permits, under certain conditions, delivery of a single shareholder report to investors who share an address (''householding''). Specifically, rule 30e–2 permits householding of annual and semi-annual reports by UITs to satisfy the delivery requirements of rule 30e–2 if, in addition to the other conditions set forth in the rule, the UIT has obtained from each applicable investor written or implied consent to the householding of shareholder reports at such address. The rule requires UITs that wish to household shareholder reports with implied consent to send a notice to each applicable investor stating that the investors in the household will receive one report in the future unless the investors provide contrary instructions. In addition, at least once a year, UITs relying on the rule for householding must explain to investors who have provided written or implied consent how they can revoke their consent. The purpose of the notice and annual explanation requirements associated with the householding provisions of the rule is to ensure that investors who wish to receive individual copies of shareholder reports are able to do so.

The Commission estimates that the annual burden associated with rule 30e–2 is 125 hours per respondent. The Commission estimates that there are currently approximately 660 UITs that file 1,320 reports per year. Therefore, the Commission estimates that the total hour burden is approximately 82,500 hours. In addition to the burden hours, the Commission estimates that the annual cost of contracting for outside services associated with rule 30e–2 is $20,000 per respondent, or $6,667 per respondent that transmits reports electronically, for a total cost of approximately $5,280,198.

Estimates of average burden hours are made solely for the purposes of the Paperwork Reduction Act and are not derived from a comprehensive or even representative survey or study of the costs of Commission rules and forms. The collection of information under rule 30e–2 is mandatory. The information provided under rule 30e–2 will not be kept confidential. 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 public may view the background documentation for this information collection at the following website, *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Lindsay.M.Abate@omb.eop.gov;* and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o Cynthia Roscoe, 100 F Street NE, Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.* 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.

Dated: March 2, 2022.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–04800 Filed 3–7–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–121, OMB Control No. 3235–0110]

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:

Form T–1

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Form T–1 (17 CFR 269.1) is a statement of eligibility and qualification under the Trust Indenture Act of 1939 (15 U.S.C. 77aaa *et seq.*) of a corporation designated to act as a trustee under an indenture. The information is used to determine whether the corporation is qualified to serve as a trustee. Form T–1 takes approximately 15 hours per response to prepare and is filed by approximately 2 respondents. We estimate that 25% of the 15 hours (4 hours per response) is prepared by the company for a total reporting burden of 8 hours (4 hours per response × 2 responses).

Written comments are invited on: (a) Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication by May 9, 2022.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Please direct your written comment 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: March 2, 2022.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–04797 Filed 3–7–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–056, OMB Control No. 3235–0059]

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:
Regulation 14A (Commission Rules 14a–1 through 14a–21 and Schedule 14A)

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Section 14(a) of the Securities Exchange Act of 1934 (the ''Exchange Act'') operates to make it unlawful for a company with a class of securities registered pursuant to Section 12 of the Exchange Act to solicit proxies in contravention of such rules and regulations as the Commission has prescribed as necessary or appropriate in the public interest or for the protection of investors. The Commission has promulgated Regulation 14A to regulate the solicitation of proxies or consents. Regulation 14A (Exchange Act Rules 14a–1 through 14a–21 and Schedule 14A) (17 CFR 240.14a–1 through 240.14a–21 and 240.14a–101) sets forth the requirements for the dissemination, content and filing of proxy or consent solicitation materials in connection with annual or other meetings of holders of a Section 12-registered class of securities. We estimate that Schedule 14A takes approximately 162.7864 hours per response and will be filed by approximately 6,369 issuers annually. In addition, we estimate that 75% of the 162.7864 hours per response (122.0898 hours) is prepared by the issuer for an annual reporting burden of 777,590 hours (122.0898 hours per response × 6,369 responses).

Written comments are invited on: (a) Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication by May 9, 2022.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Please direct your written comment 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: March 2, 2022.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–04801 Filed 3–7–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–330, OMB Control No. 3235–0645]

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:
Interactive Data

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

The ''Interactive Data'' collection of information requires issuers filing registration statements under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) and reports under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) to submit specified financial information to the Commission and post it on their corporate websites, if any, in interactive data format using eXtensible Business Reporting Language (XBRL). This collection of information is located primarily in registration statement and report exhibit provisions, which require interactive data, and Rule 405 of Regulation S–T (17 CFR 232.405), which specifies how to submit and post interactive data. The exhibit provisions are in Item 601(b)(101) of Regulation S–K (17 CFR 229.601(b)(101), F–10 under the Securities Act (17 CFR 239.40) and Forms 20–F, 40–F and 6–K under the Exchange Act (17 CFR 249.220f, 17 CFR 249.240f and 17 CFR 249.306).

In interactive data format, financial statement information could be downloaded directly into spreedsheets and analyzed in a variety of ways using commercial off-the-shelf software. The specified financial information already is and will continue to be required to be submitted to the Commission in traditional format under existing requirements. The purpose of the interactive data requirement is to make financial information easier for investors to analyze and assist issuers in automating regulatory filings and business information processing. We estimate that 8,315 respondents per year will each submit an average of 4.5 reponses per year for an estimated total of 37,418 responses. We further estimate an internal burden of 54.56446 hours per response for a total annual internal burden of 2,041,693 hours (54.56446 hours per response × 37,418 responses).

Written comments are invited on: (a) Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication by May 9, 2022.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Please direct your written comment 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: March 3, 2022.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–04882 Filed 3–7–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–94349; File No. SR–NYSE–2021–45]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change, as Modified by Amendment No. 2, To Adopt Listing Standards for Subscription Warrants Issued by a Company Organized Solely for the Purpose of Identifying an Acquisition Target

March 2, 2022.

I. Introduction

On August 24, 2021, New York Stock Exchange LLC (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt listing standards for subscription warrants issued by a company organized solely for the purpose of identifying an acquisition target. The proposed rule change was published for comment in the **Federal Register** on September 10, 2021.[3]

On September 30, 2021, pursuant to Section 19(b)(2) of the Exchange Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[5] On December 8, 2021, the Commission instituted proceedings under Section 19(b)(2)(B) of the Exchange Act [6] to determine whether to approve or disapprove the proposed rule change.[7]

On March 1, 2022, the Exchange filed Amendment No. 2 to the proposed rule change, which replaced the proposed rule change as originally filed and superseded such filing in its entirety.[8] Amendment No. 2 to the proposed rule change is described in Items 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, as modified by Amendment No. 2, from interested persons.

II. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Listed Company Manual (''Manual'') to adopt a new listing standard for the listing of Subscription Warrants. 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.

III. 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

Amendment No. 2 to SR–NYSE–2021–45

The Exchange has previously filed a proposed rule change to permit the listing of Subscription Warrants.[9] Amendment No. 2 to SR–NYSE–2021–45 proposes to:

• Provide that Subscription Warrants with respect to which the exercise price is tendered after execution of an Acquisition Agreement will not actually be exercised until consummation of the company's business combination;

• state that the Subscription Warrants must provide for a period of at least 20 business days after effectiveness of such post-effective amendment or new registration statement during which holders may elect to exercise Subscription Warrants effective upon closing of the Acquisition, which period may expire prior to the date of consummation of the Acquisition. The terms of the Subscription Warrants must not in any other way limit the ability of holders to exercise such Subscription Warrants in full;

• specify that Subscription Warrants must be issued for no consideration to the securityholders of a previously existing company;

• increase from 1.1 million to 20 million the number of publicly-held Subscription Warrants that must be outstanding at the time of initial listing;

• state that a Subscription Warrant may provide by its terms that the issuer may (1) determine, at issuance, that each Subscription Warrant may be exercisable for a specified number of shares greater than one share; and (2) determine, at the time it enters into an Acquisition Agreement, that the exercise price per share may be increased above the exercise price specified at the time of original issuance;

• provide that the Subscription Warrants must have an opening trading price on the first day of listing of at least $1.00 per Subscription Warrant;

• provide that the Subscription Warrants may not be tendered for exercise into common stock of a company until after such company has complied with all requirements of the federal securities laws with respect to such exercise, including, as appropriate, the filing and effectiveness of a post-effective amendment to the registration statement filed in connection with the original distribution of the Subscription Warrants or the filing and effectiveness of a new registration statement in connection with the exercise of such Subscription Warrants;

• state that the shares will be issued to the tendering holders of Subscription Warrants and the proceeds released to the issuer by the independent custodian at the time of closing of the Acquisition;

• state that the independent custodian will promptly return the funds tendered in payment of the exercise price of Subscription Warrants to the tendering holders (A) upon termination of the Acquisition Agreement; or (B) if the Acquisition does not close within twelve months from the date of entry into the definitive

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 92876 (September 3, 2021), 86 FR 50748. Comments received on the proposal are available on the Commission's website at: *https://www.sec.gov/comments/sr-nyse-2021-45/srnyse202145.htm.*

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 93221, 86 FR 55662 (October 6, 2021). The Commission designated December 9, 2021 as the date by which the Commission shall approve or disapprove, or institute proceedings to determine whether to approve or disapprove, the proposed rule change.

[6] 15 U.S.C. 78s(b)(2)(B).

[7] *See* Securities Exchange Act Release No. 93741, 86 FR 71111 (Dec. 14, 2021).

[8] Amendment No. 2 is available at: *https://www.sec.gov/comments/sr-nyse-2021-45/srnyse202145.htm.* On February 17, 2022, the Exchange filed Amendment No. 1 to the proposed rule change. The Exchange withdrew Amendment No. 1 on March 1, 2022.

[9] *See* SR–NYSE–2021–45. On February 17, 2022, the NYSE submitted Amendment No. 1, which was subsequently withdrawn.

agreement with respect to the Acquisition or such earlier time as is specified in the operative agreements;

- increase the continued listing requirement with respect to the number of publicly-held Subscription Warrants from 100,000 to five million; and
- provide for the commencement of immediate suspension and delisting procedures when the average trading price of the Subscription Warrants is less than $0.25 over 30 consecutive trading days.

This Amendment No. 2 to SR–NYSE–2021–45 replaces SR–NYSE–2021–45 as originally filed and supersedes such filing in its entirety.

Subscription Warrants

The Exchange proposes to adopt a new subsection of Section 102 of the Manual (to be designated Section 102.09) to permit the listing of Subscription Warrants. For purposes of proposed Section 102.09 a Subscription Warrant is a warrant issued by a company organized solely for the purpose of identifying an acquisition target and is exercisable into the common stock of such company only upon consummation of such acquisition.

Initial Listing Standards for Subscription Warrants

The Exchange will list Subscription Warrants subject to the following requirements:

(i) The issuer of the Subscription Warrants must be a company formed solely for the purpose of issuing the Subscription Warrants and consummating the acquisition of one or more operating businesses or assets with a value (calculated at the time of entry into the acquisition agreement) equal to at least 80% of the aggregate exercise price of the Subscription Warrants (an ''Acquisition''). The Subscription Warrants must be issued for no consideration to the securityholders of another previously existing company.

(ii) For a transaction to qualify as an Acquisition, the resultant entity must qualify for initial listing on the Exchange and the acquisition agreement must provide that the transaction will be consummated only if the resultant entity will be listed on the Exchange or another national securities exchange.

(iii) At the time of initial listing, the Subscription Warrants must: (A) Have an aggregate exercise price of at least $250 million; (B) have at least 20 million publicly held Subscription Warrants outstanding, with an aggregate exercise price of at least $200 million; (C) have at least 400 holders of round lots; (D) have an exercise price per share of common stock of at least $10.00; (E) have an opening trading price on the first day of listing of at least $1.00 per Subscription Warrant; and (F) expire in no more than 10 years. For purposes of proposed Section 102.09, public holders of Subscription Warrants do not include those held by directors, officers, or their immediate families and other concentrated holdings of 10 percent.

(iv) A Subscription Warrant may provide by its terms that the issuer may (1) determine, at issuance, that each Subscription Warrant may be exercisable for a specified number of shares greater than one share; and (2) determine, at the time it enters into an Acquisition Agreement, that the exercise price per share may be increased above the exercise price specified at the time of original issuance of such Subscription Warrants.

(v) The distribution of the Subscription Warrants and the issuance of the common stock of the issuer upon exercise of the Subscription Warrants must both be registered under the Securities Act.

(vi) The Subscription Warrants may not be tendered for exercise into common stock of a company until after such company has (A) entered into a binding agreement with respect to the Acquisition; and (B) complied with all requirements of the federal securities laws with respect to such exercise, including, as appropriate, the filing and effectiveness of a post-effective amendment to the registration statement filed in connection with the original distribution of the Subscription Warrants or the filing and effectiveness of a new registration statement in connection with the exercise of such Subscription Warrants.

(vii) Subscription Warrants must provide for a period of at least 20 business days after effectiveness of such post-effective amendment or new registration statement during which holders may elect to exercise Subscription Warrants effective upon closing of the Acquisition, which period may expire prior to the date of consummation of the Acquisition. The terms of the Subscription Warrants must not in any other way limit the ability of holders to exercise such Subscription Warrants in full.

(viii) The proceeds of the exercise of the Subscription Warrants will be held in an interest-bearing custody account controlled by an independent custodian, pending the closing of such Acquisition. The shares will be issued to the tendering holders of Subscription Warrants and the proceeds released to the issuer by the independent custodian at the time of closing of the Acquisition.

(ix) The independent custodian will promptly return the funds tendered in payment of the exercise price of Subscription Warrants to the tendering holders: (A) Upon termination of the Acquisition Agreement; or (B) if the Acquisition does not close within twelve months of entry into the definitive agreement with respect to the Acquisition, or such earlier time as is specified in the operative agreements. Such holders will receive cash payments equal to their proportional share of the funds in the custody account, including any interest earned on those funds.

(x) The issuer of the Subscription Warrants will be subject to the same corporate governance requirements under Section 303A hereof as an issuer of listed common stock.

(xi) The Acquisition must be approved by a majority of the independent directors of the issuer of the Subscription Warrants.

Continued Listing Standards for Subscription Warrants

The Exchange will immediately initiate suspension and delisting procedures of an issuer's Subscription Warrants if:

- The number of publicly-held Subscription Warrants is fewer than five million;
- the number of public holders of such Subscription Warrants is fewer than 100;
- the total market capitalization of such Subscription Warrants is below $15 million over 30 consecutive trading days; or
- the average trading price of the Subscription Warrants is less than $0.25 over 30 consecutive trading days.

For purposes of the foregoing, public holders of Subscription Warrants do not include those held by directors, officers, or their immediate families and other concentrated holdings of 10 percent.

An issuer of Subscription Warrants will not be eligible to follow the procedures outlined in Sections 802.02 and 802.03 with respect to the criteria set forth above and any such security will be subject to delisting procedures as set forth in Section 804.00.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,[10] in that it is designed 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,

[10] 15 U.S.C. 78f(b)(5).

and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an additional type of security that will, in turn, enhance competition among market participants, to the benefit of investors and the marketplace.

Furthermore, the Exchange believes that the proposed listing standard is consistent with Section 6(b)(5) of the Act in that it contains requirements in relation to the listing of Subscription Warrants that provide adequate protections for investors and the public interest. In particular, the Exchange believes that the proposed rule provides important investor protections including, but not limited to, providing that: (1) The issuer cannot accept Subscription Warrants for exercise until it has entered into a definitive Acquisition Agreement and filed and obtained effectiveness of a registration statement with respect to such exercise; (2) cash tendered by Subscription Warrant holders in payment of the exercise price will be held in an interest-bearing account controlled by an independent custodian pending closing of the Acquisition; and (3) if the Acquisition is terminated or does not close within 12 months of the date of the Acquisition Agreement, the tendering holders will receive a distribution of their pro rata share of the funds in the custody account.

The Exchange also believes that the proposed quantitative standards for Subscription Warrants are adequate to protect the interests of investors and the public interest. The Exchange notes that the proposed requirements that the Subscription Warrants at the time of initial listing must have an aggregate exercise price of at least $250 million and that there be publicly-held Subscription Warrants with an aggregate exercise price of at least $200 million significantly exceeds the listing requirements for SPACs set forth in Section 102.06 of the Manual, which requires a SPAC to have an aggregate market value of $100 million and a market value of publicly-held shares of $80 million.

The Exchange believes that its existing surveillance procedures are adequate to enable it to detect manipulative trading practices with respect to Subscription Warrants. The Exchange notes that the NYSE and other self-regulatory organizations have extensive experience in conducting surveillance of the trading in securities whose value, like that of Subscription Warrants, is substantially dependent on the issuer's future acquisition of a yet-to-be-identified operating asset. Such similar securities include the common stock and warrants of listed special purpose acquisition companies (''SPACs'') and options on listed SPAC common stocks. The Exchange also believes that the extensive experience that exists in the trading of these kinds of securities provides evidence that market participants are generally able to arrive at market prices for such securities without excessive volatility and that this experience provides a reasonable basis for understanding how Subscription Warrants are likely to trade.

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 not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule would be available in a non-discriminatory way to any company satisfying its requirements, as well as all other applicable NYSE listing requirements. In addition, the proposed rule change does not impose any burden on the competition with other listing exchanges; any competing exchange could similarly adopt rules to allow the listing of Subscription Warrants.

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.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as modified by Amendment No. 2, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2021–45 on the subject line.

Paper Comments

- Send paper comments in triplicate to: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2021–45. 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–NYSE–2021–45 and should be submitted on or before March 29, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–04836 Filed 3–7–22; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF STATE

[Public Notice: 11672]

Notice of Determinations; Culturally Significant Objects Being Imported for Storage and Exhibition—Determinations: ''Cartier and Islamic Art: In Search of Modernity'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby

[11] 17 CFR 200.30–3(a)(12).

determine that certain objects being imported from abroad pursuant to agreements with their foreign owners or custodians for temporary storage and display in the exhibition ''Cartier and Islamic Art: In Search of Modernity'' at the Dallas Museum of Art, Dallas, Texas, and at possible additional exhibitions or venues yet to be determined, are of cultural significance, and, further, that their temporary storage and exhibition or display within the United States as aforementioned are in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Chi D. Tran, Program Administrator, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, 2200 C Street, NW (SA–5), Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000, and Delegation of Authority No. 523 of December 22, 2021.

Stacy E. White,

Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2022–04863 Filed 3–7–22; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 11673]

Notice of Determinations; Culturally Significant Object Being Imported for Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that a certain object, entitled ''A Lavish Still Life with Terracotta Vase, A Clump of Cyclamen and Scattered Diamonds and Sapphires'' by Jan Brueghel the Elder, being imported from abroad pursuant to an agreement with its foreign owner or custodian for temporary exhibition or display at The J. Paul Getty Museum at the Getty Center, Los Angeles, California, and at possible additional exhibitions or venues yet to be determined, is of cultural significance, and, further, that its temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Chi D. Tran, Program Administrator, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, 2200 C Street NW (SA–5), Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000, and Delegation of Authority No. 523 of December 22, 2021.

Stacy E. White,

Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2022–04867 Filed 3–7–22; 8:45 am]

BILLING CODE 4710–05–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36486 (Sub-No. 2)]

Grainbelt Corporation—Trackage Rights Exemption—BNSF Railway Company

Grainbelt Corporation (GNBC), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1180.2(d)(7) [1] to extend the term of the previously amended, local trackage rights on trackage owned by BNSF Railway Company (BNSF) between approximately milepost 668.73 in Long, Okla., and approximately milepost 723.30 in Quanah, Tex. (the Line), allowing GNBC to (1) use the Line to access the Plains Cotton Cooperative Association (PCCA) facility near BNSF Chickasha Subdivision milepost 688.6 at Altus, Okla., and (2) operate additional trains on the Line to accommodate the movement of trains transporting BNSF customers' railcars (loaded or empty) located along the Line, to unit train facilities on the Line (collectively, the PCCA Trackage Rights).[2] GNBC and BNSF have entered into an amendment to extend the PCCA Trackage Rights [3] until March 28, 2023.[4]

The transaction may be consummated on or after March 22, 2022, the effective date of the exemption.

As a condition to this exemption, any employees affected by the acquisition of the trackage rights will be protected by the conditions imposed in *Norfolk & Western Railway—Trackage Rights—Burlington Northern, Inc.,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Railway—Lease & Operate—California Western Railroad,* 360 I.C.C. 653 (1980).

If the 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 March 15, 2022 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36486 (Sub-No. 2), should be filed with the Surface Transportation Board

[1] The pleadings in this docket were originally filed in Docket No. FD 36580, but given that the trackage rights at issue are the same as those in Docket No. FD 36486, this proceeding has been changed to a subdocket of that original proceeding.

[2] GNBC states that it originally acquired overhead trackage rights granted by BNSF's predecessor between Snyder Yard at milepost 664.00 and Quanah at milepost 723.30 allowing GNBC to interchange at Quanah with BNSF and Union Pacific Railroad Company. According to GNBC, these original trackage rights were supplemented in 2009 to allow GNBC to operate between Snyder, Okla., and Altus, with the right to perform limited local service at Long, Okla. *See Grainbelt Corp.—Trackage Rts. Exemption—BNSF Ry. & Stillwater Cent. R.R.,* FD 35332 (STB served Dec. 17, 2009). The trackage rights were further amended in 2013 to allow GNBC to provide local grain service to a shuttle facility in Headrick, Okla., and again in 2014 to allow GNBC to provide local service to a grain shuttle facility in Eldorado, Okla. *See Grainbelt Corp.—Trackage Rts. Exemption—BNSF Ry.,* FD 35719 (STB served Mar. 15, 2013); *Grainbelt Corp.—Trackage Rts. Exemption—BNSF Ry.,* FD 35831 (STB served June 12, 2014). Finally, in 2021, BNSF and GNBC amended the trackage rights again to include the PCCA Trackage Rights. *See Grainbelt Corp.—Trackage Rts. Exemption—BNSF Ry.,* FD 36486 (STB served Mar. 12, 2021). Subsequently, in Docket No. FD 36486 (Sub-No. 1), the Board granted GNBC a petition for partial revocation of the trackage rights exemption to allow them to expire on March 28, 2022. *See Grainbelt Corp.—Trackage Rts. Exemption—BNSF Ry.,* FD 36486 (Sub-No. 1) (STB served Apr. 20, 2021). GNBC now seeks to extend the term of the PCCA Trackage Rights for an additional year, to March 28, 2023.

[3] On February 23,2022, GNBC filed a letter to clarify that the trackage rights at issue in this proceeding are the PCCA Trackage Rights.

[4] GNBC states that its verified notice is related to a petition for partial revocation filed in Docket No. FD 36580 (Sub-No. 1), in which GNBC seeks authority to allow the trackage rights at issue here to expire automatically twelve months after the effective date of this exemption. GNBC's petition for partial revocation will be addressed in a separate decision, redocketed in Docket No. FD 36486 (Sub-No. 3).

via e-filing on the Board's website. In addition, a copy of each pleading must be served on GNBC's representative, Eric M. Hocky, Clark Hill PLC, Two Commerce Square, 2001 Market Street, Suite 2620, Philadelphia, PA 19103.

According to GNBC, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 CFR 1105.8(b).

Board decisions and notices are available at *www.stb.gov.*

Decided: March 2, 2022.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Aretha Laws-Byrum,

Clearance Clerk.

[FR Doc. 2022–04839 Filed 3–7–22; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2022–0037]

Agency Information Collection Activity: Request for Comments: Bipartisan Infrastructure Law Airport Terminal and Tower Project Information

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of request for public comment.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, FAA invites public comments on a new information collection form. This collection involves soliciting project information for the Bipartisan Infrastructure Law (BIL) Airport Terminal and Tower Programs. FAA is collecting this information to determine projects to be awarded BIL competitive discretionary grants. The Office of Management and Budget (OMB) has granted a 180-day emergency approval for this collection. FAA plans to follow this emergency approval with a submission for a 3-year approval through OMB's normal PRA clearance process and will incorporate any comments received as a result of this Notice.

DATES: Written comments should be submitted by April 7, 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 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Robin K. Hunt, Manager, BIL Implementation Team by email at *9-ARP-BILAirports@faa.gov* or phone at (202) 267–3831.

SUPPLEMENTARY INFORMATION:

Public Comment 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.

OMB Control Number: 2120–0806.

Title: Bipartisan Infrastructure Law Airport Terminal and Tower Project Information.

Form Numbers: FAA Form 5100–144.

Type of Review: Emergency approval of an information collection.

Background: The FAA is developing this collection to solicit the information necessary to evaluate and select airport terminal and tower projects for funding under the Bipartisan Infrastructure Law (BIL), signed on November 15, 2021. The BIL provides about $1,020,000,000 annually, for five years, to award competitive discretionary grants for airport terminal and tower development. Of this amount, about $1,000,000,000 annually, for five years, is for the Airport Terminal Program, and $20,000,000 annually, for five years, is for an Airport Tower Program (referred to collectively as ''Airport Terminal and Towers Programs''). Congress, through the BIL, instructed the FAA to fund these projects expeditiously in order to address the nation's aging airport infrastructure. The information collected is based on grant considerations and priorities outlined in the BIL. Project consideration areas include increasing terminal capacity and passenger access, replacing aging infrastructure, achieving compliance with the Americans with Disabilities Act (42 U.S.C. 12101, *et seq.*) and expanding accessibility for persons with disabilities, improving airport access for historically disadvantaged populations, improving energy efficiency, including upgrading environmental systems, upgrading plant facilities, and achieving Leadership in Energy and Environmental Design (LEED) accreditation standards, improving airfield safety through terminal relocation, encouraging actual and potential competition, and creating good paying jobs. The information FAA is collecting will include general airport information, a project overview, and narratives on project consideration areas as outlined in the BIL. Airport owners and managers who want to pursue funding and obtain benefits from the BIL Airport Terminal and Tower Programs will submit information via FAA Form 5100–144 to compete for grants. Approximately 3,075 airports are eligible to compete for this funding, but FAA expects only a small subset of eligible airports to submit project information through this competitive discretionary grant process.

Use: The FAA will use submitted information to evaluate and select projects for funding that most closely align with grant considerations and priorities provided in the BIL. These include the areas noted above.

Respondents: An estimated 510 airports are expected to apply for these competitive grants.

Frequency: Information will be collected once within 180 days of OMB approval.

Estimated Total Annual Burden: 6 hours per respondent.

Issued in Washington, DC.

Robin K. Hunt,

Manager, BIL Implementation Team.

[FR Doc. 2022–04855 Filed 3–7–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Information Collection Renewal; Comment Request; Consumer Protections for Depository Institution Sales of Insurance

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection as required by the Paperwork Reduction Act of 1995 (PRA). In accordance with the requirements of the PRA, the OCC may not conduct or sponsor, and respondents are not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OCC is

soliciting comment concerning renewal of its information collection titled ''Consumer Protections for Depository Institution Sales of Insurance.''

DATES: Comments must be received by May 9, 2022.

ADDRESSES: Commenters are encouraged to submit comments by email, if possible. You may submit comments by any of the following methods:

- *Email: prainfo@occ.treas.gov.*
- *Mail:* Chief Counsel's Office, Attention: Comment Processing, Office of the Comptroller of the Currency, Attention: 1557–0220, 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Hand Delivery/Courier:* 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Fax:* (571) 465–4326.

Instructions: You must include ''OCC'' as the agency name and ''1557–0220'' in your comment. In general, the OCC will publish comments on *www.reginfo.gov* without change, including any business or personal information provided, such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

Following the close of this notice's 60-day comment period, the OCC will publish a second notice with a 30-day comment period. You may review comments and other related materials that pertain to this information collection beginning on the date of publication of the second notice for this collection by the method set forth in the next bullet.

- *Viewing Comments Electronically:* Go to *www.reginfo.gov.* Hover over the ''Information Collection Review'' tab and click on ''Information Collection Review'' dropdown. Underneath the ''Currently under Review'' section heading, from the drop-down menu select ''Department of Treasury'' and then click ''submit.'' This information collection can be located by searching by OMB control number ''1557–0220'' or ''Consumer Protections for Depository Institution Sales of Insurance.'' Upon finding the appropriate information collection, click on the related ''ICR Reference Number.'' On the next screen, select ''View Supporting Statement and Other Documents'' and then click on the link to any comment listed at the bottom of the screen.
- For assistance in navigating *www.reginfo.gov,* please contact the Regulatory Information Service Center at (202) 482–7340.

FOR FURTHER INFORMATION CONTACT: Shaquita Merritt, Clearance Officer, (202) 649–5490 or, for persons who are deaf or hearing impaired, TTY, (202) 649–5597, Chief Counsel's Office, Office of the Comptroller of the Currency, 400 7th Street SW, Suite 3E–218, Washington, DC 20219. If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) to include agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of part 44 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, the OCC is publishing notice of the collection of information set forth in this document.

Title: Consumer Protections for Depository Institution Sales of Insurance.

OMB Control No.: 1557–0220.

Type of Review: Extension, without revision, of a currently approved collection.

Description: This information collection is required under section 305 of the Gramm-Leach-Bliley Act (GLB Act), 12 U.S.C. 1831x. Section 305 of the GLB Act requires the OCC, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation (collectively, the Agencies) to prescribe joint consumer protection regulations that apply to retail sales practices, solicitations, advertising, and offers of any insurance product by a depository institution or by other persons performing these activities at an office of the institution or on behalf of the institution (other covered persons). Section 305 also requires those performing such activities to disclose certain information to consumers (*e.g.,* that insurance products and annuities are not FDIC-insured).

This information collection requires national banks, Federal savings associations, and other covered persons involved in insurance sales, as defined in 12 CFR 14.20(f), to make two separate disclosures to consumers. Under 12 CFR 14.40, a national bank, Federal savings association, or other covered person must prepare and provide orally and in writing: (1) Certain insurance disclosures to consumers before the completion of the initial sale of an insurance product or annuity to a consumer and (2) certain credit disclosures at the time of application for the extension of credit (if insurance products or annuities are sold, solicited, advertised, or offered in connection with an extension of credit). The insurance disclosures are required in advertisements and promotional material for insurance products or annuities unless the advertisements and promotional materials are of a general nature describing or listing the services or products offered by the national bank or Federal savings association.

Consumers use the disclosures to understand the risks associated with insurance products and annuities and to understand that they are not required to purchase, and may refrain from purchasing, certain insurance products or annuities in order to qualify for an extension of credit.

Affected Public: Businesses or other for-profit.

Frequency: On occasion.

Estimated Burden:

Estimated Number of Respondents: 401.

Total Estimated Burden Hours: 2,005.

Comments: Comments submitted in response to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;

(b) The accuracy of the OCC's estimate of the information collection burden;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of the operation, maintenance, and purchase of services

necessary to provide the required information.

Theodore J. Dowd,

Deputy Chief Counsel, Office of the Comptroller of the Currency.

[FR Doc. 2022–04811 Filed 3–7–22; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Requirements; Information Collection Renewals; Comment Requests; Request for COVID–19 Vaccine Status and Proof of Vaccination

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and requests for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on the renewal of two information collections as required by the Paperwork Reduction Act of 1995 (PRA). In accordance with the requirements of the PRA, the OCC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OCC is soliciting comment concerning the renewal of its information collection titled, ''Request for COVID–19 Vaccine Status and Proof of Vaccination.''

DATES: You should submit written comments by May 9, 2022.

ADDRESSES: Commenters are encouraged to submit comments by email, if possible. You may submit comments by any of the following methods:

- *Email: prainfo@occ.treas.gov.*
- *Mail:* Chief Counsel's Office, Attention: Comment Processing, Office of the Comptroller of the Currency, Attention: 1557–0355, 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Hand Delivery/Courier:* 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Fax:* (571) 465–4326.

Instructions: You must include ''OCC'' as the agency name and ''1557–0355'' in your comment. In general, the OCC will publish comments on *www.reginfo.gov* without change, including any business or personal information provided, such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

You may review comments and other related materials that pertain to this information collection beginning on the date of publication of the second notice for these collections by the method set forth in the next bullet. Following the close of this notice's 60-day comment period, the OCC will publish a second notice with a 30-day comment period:

- *Viewing Comments Electronically:* Go to *www.reginfo.gov.* Hover over the ''Information Collection Review'' drop-down menu. From the ''Currently under Review'' drop-down menu select ''Department of Treasury'' and then click ''submit.'' These information collections can be located by searching: OMB control number ''1557–0355'' or ''Request for COVID–19 Vaccine Status and Proof of Vaccination.''

Upon finding the appropriate information collection, click on the related ''ICR Reference Number.'' On the next screen, select ''View Supporting Statement and Other Documents'' and then click on the link to any comment listed at the bottom of the screen.

- For assistance in navigating *www.reginfo.gov,* please contact the Regulatory Information Service Center at (202) 482–7340.

FOR FURTHER INFORMATION CONTACT: Shaquita Merritt, OCC Clearance Officer, (202) 649–5490, Chief Counsel's Office, Office of the Comptroller of the Currency, 400 7th Street SW, Suite 3E–218, Washington, DC 20219.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information that they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) to include agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of title 44 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, the OCC is publishing notice of the renewal of the emergency approval granted to the information collection set forth in this document.

Title: Request for COVID–19 Vaccine Status and Proof of Vaccination.''

OMB Control No.: 1557–0355.

Abstract: The President, by Executive order 13991 (January 20, 2021) established the Safer Federal Workforce Task Force (Task Force). The Task Force was established to give the heads of Federal agencies ongoing guidance to keep their employees safe and their agencies operating during the COVID–19 pandemic. The Task Force issued guidance, in accordance with the President's Executive Order 14043 (September 9, 2021), requiring Federal employees to be vaccinated against COVID–19 by November 22, 2021 absent a legally required exception. The Task Force issued guidance regarding individuals who start their government service after November 22, 2021, stating that those individuals should be fully vaccinated prior to their start date, except in limited circumstances where an accommodation is legally required. The guidance also provided that agencies should require documentation to prove vaccination status of those individuals prior to the enter on-duty date. To determine whether individuals who have been offered a position with the Office of the Comptroller of the Currency (OCC) are fully vaccinated during the onboarding process and before their enter on-duty date, in compliance with the Task Force guidance, the OCC developed the Appian vaccine attestation form in an online application (Attestation Form). The Attestation Form was developed, consistent with guidance issued by the Task Force and the U.S. Department of Treasury, to gather information from current and prospective employees regarding their vaccination status and proof of vaccination.

To ensure compliance with an applicable preliminary nationwide injunction, which may be supplemented, modified, or vacated, depending on the course of ongoing litigation, Office of the Comptroller of the Currency will take no action to implement or enforce the COVID–19 vaccination requirement pursuant to Executive Order 14043 on Requiring Coronavirus Disease 2019 Vaccination for Federal Employees while the injunction is in effect.

Type of Review: Extension, without change, of a currently approved collection.

Affected Public: Individuals.

Burden Estimate:

Estimated Number of Respondents: 250.

Estimated Burden per Respondent: 0.25 Hours.

Total Burden: 62.5 Hours.

Comments submitted in response to this notice will be summarized and included in the requests for OMB approval. All comments will become a matter of public record. Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;

(b) The accuracy of the agency's estimates of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Theodore J. Dowd,

Deputy Chief Counsel, Office of the Comptroller of the Currency.

[FR Doc. 2022–04810 Filed 3–7–22; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Information Collection Renewal; Comment Request; Loans in Areas Having Special Flood Hazards

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection as required by the Paperwork Reduction Act of 1995 (PRA). In accordance with the requirements of the PRA, the OCC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OCC is soliciting comment concerning the renewal of its information collection titled ''Loans in Areas Having Special Flood Hazards.''

DATES: Comments must be received by May 9, 2022.

ADDRESSES: Commenters are encouraged to submit comments by email, if possible. You may submit comments by any of the following methods:

- *Email: prainfo@occ.treas.gov.*
- *Mail:* Chief Counsel's Office, Attention: Comment Processing, Office of the Comptroller of the Currency, Attention: 1557–0326, 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Hand Delivery/Courier:* 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Fax:* (571) 465–4326.

Instructions: You must include ''OCC'' as the agency name and ''1557–0326'' in your comment. In general, the OCC will publish comments on *www.reginfo.gov* without change, including any business or personal information provided, such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure. Following the close of this notice's 60-day comment period, the OCC will publish a second notice with a 30-day comment period. You may review comments and other related materials that pertain to this information collection beginning on the date of publication of the second notice for this collection by the method set forth in the next bullet.

Viewing Comments Electronically: Go to *www.reginfo.gov.* Hover over the ''Information Collection Review'' tab and click on ''Information Collection Review'' dropdown. Underneath the ''Currently under Review'' section heading, from the drop-down menu select ''Department of Treasury'' and then click ''submit.'' This information collection can be located by searching by OMB control number ''1557–0326'' or ''Loans in Areas Having Special Flood Hazards.''

- Upon finding the appropriate information collection, click on the related ''ICR Reference Number.'' On the next screen, select ''View Supporting Statement and Other Documents'' and then click on the link to any comment listed at the bottom of the screen.
- For assistance in navigating *www.reginfo.gov,* please contact the Regulatory Information Service Center at (202) 482–7340.

FOR FURTHER INFORMATION CONTACT: Shaquita Merritt, OCC Clearance Officer, (202) 649–5490, Chief Counsel's Office, Office of the Comptroller of the Currency, 400 7th Street SW, Suite 3E–218, Washington, DC 20219. If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the OMB for each collection of information that they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) to include agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of title 44 requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each renewal of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the OCC is publishing notice of the renewal of the collection of information set forth in this document.

Title: Loans in Areas Having Special Flood Hazards.

OMB Control No.: 1557–0326.

Type of Review: Regular.

Abstract: This information collection is required to evidence compliance with the requirements of the Federal flood insurance statutes with respect to lenders and servicers and set forth in OCC regulations at 12 CFR part 22. These provisions are required by the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973, as amended.[1] The information collection requirements in part 22 are as follows:

- *12 CFR 22.3—Requirement to Purchase Flood Insurance Where Available*—Under § 22.3(c)(3), national banks and Federal savings associations have the discretion to accept a flood insurance policy issued by a private insurer that is not issued under the National Flood Insurance Program (NFIP) and does not meet the definition of private flood insurance if, among other things, the policy provides sufficient protection of the designated loan, consistent with general safety and soundness principles, and the bank or savings association has documented its conclusion regarding sufficiency of the protection in writing. Under § 22.3(c)(4)(v), national banks and Federal savings associations may accept a private policy issued by a mutual aid society if, among other things, the

[1] 42 U.S.C. 4001–4129.

coverage provides sufficient protection of the designated loan, consistent with general safety and soundness principles, and the bank or savings association has documented its conclusion regarding sufficiency of the protection in writing.

• *12 CFR 22.5—Escrow Requirements*—With certain exceptions with respect to types of loans and size of institution, national banks, Federal savings associations, and their servicers must escrow flood insurance premiums and fees for all loans secured by properties located in a Special Flood Hazard Area made, increased, extended, or renewed on or after January 1, 2016. When escrow is required, the national bank or Federal savings associations must mail or deliver to the borrower a written notice informing the borrower that the bank or savings association is required to escrow all premiums and fees for required flood insurance.

• *12 CFR 22.6(a)—Required Use of Standard Flood Hazard Determination Form*—A national bank or Federal savings association must use the Standard Flood Hazard Determination Form developed by FEMA.

• *12 CFR 22.6(b)—Retention of Standard Flood Hazard Determination Form*—A national bank or Federal savings association must retain a copy of the completed Standard Flood Hazard Determination Form for the period of time the bank or savings association owns the loan.

• *12 CFR 22.7—Notice of Forced Placement of Flood Insurance*—If a national bank or Federal savings association, or its loan servicer, determines during the period of time the bank or savings association owns the loan that the property securing the loan is not covered by adequate flood insurance, the bank or savings association, or its loan servicer, must notify the borrower that the borrower should obtain adequate flood insurance coverage at the borrower's expense in an amount at least equal to the minimum amount required under the regulation for the remaining term of the loan. If the borrower fails to purchase insurance, the bank or savings association, or its servicer, must purchase insurance on the borrower's behalf and may charge the borrower for the premiums and fees. The insurance provider must be notified to terminate any insurance purchased by an institution or servicer within 30 days of receipt of confirmation of a borrower's existing flood insurance coverage.

• *12 CFR 22.9(a) and (b)—Notice to Borrower and Servicer*—A national bank or Federal savings association making, increasing, extending, or renewing a loan secured by property located in a special flood hazard area must provide a written notice to the borrower and loan servicer (borrower notice). The borrower notice must include a warning that the property securing the loan is located in a special flood hazard area; a description of the flood insurance purchase requirements; a statement indicating that flood insurance is available under the National Flood Insurance Program, where applicable; a statement that flood insurance providing the same level of coverage may be available from private insurance companies; a statement that borrowers are encouraged to compare NFIP and private flood insurance policies; and a statement whether Federal disaster relief assistance may be available in the event of a declared Federal flood disaster.

• *12 CFR 22.9(d) and (e)—Record of Borrower and Servicer Receipt of Notice and Alternate Method of Notice*—A national bank or Federal savings association must retain a record of the receipt of the borrower notices by the borrower and the loan servicer for the period of time the bank or savings association owns the loan. In lieu of providing the borrower notice, a national bank or savings association may obtain a satisfactory written assurance from a seller or lessor that, within a reasonable time before completion of the sale or lease transaction, the seller or lessor has provided such notice to the purchaser or lessee. The bank or savings association must retain a record of the written assurance from the seller or lessor for the period of time it owns the loan.

• *12 CFR 22.10—Notices to FEMA*—A national bank or savings association making, increasing, extending, renewing, selling, or transferring a loan secured by property located in a special flood hazard area must notify the Administrator of FEMA (or the Administrator's designee) of the identity of the loan servicer (notice of servicer), and must notify the Administrator of FEMA (or the Administrator's designee) of any change in the loan servicer (notice of servicer transfer) within 60 days after the effective date of such change.

Affected Public: Businesses or other for-profit.

Estimated Number of Respondents: 1,550.

Estimated Total Annual Burden: 121,069.

Frequency of Response: On occasion.

Comments submitted in response to this notice will be summarized, included in the request for OMB approval, and become a matter of public record. Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;

(b) The accuracy of the OCC's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Theodore J. Dowd,

Deputy Chief Counsel, Office of the Comptroller of the Currency.

[FR Doc. 2022–04809 Filed 3–7–22; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Notice Regarding Certain Church Plan Clarifications Under the PATH Act

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, 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 continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning reporting requirements for notice regarding certain church plan clarifications under section 336 of the PATH Act.

DATES: Written comments should be received on or before May 9, 2022 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to *omb.unit@irs.gov*. Include OMB control number 1545–2279 or Notice Regarding Certain Church Plan Clarifications under Section 336 of the PATH Act in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or

copies of the form should be directed to Kerry Dennis at (202) 317–5751, or at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington DC 20224, or through the internet, at *Kerry.L.Dennis@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Notice Regarding Certain Church Plan Clarifications under Section 336 of the PATH Act.

OMB Number: 1545–2279.

Regulation Project Number: Notice–2018–81.

Abstract: Notice 2018–81 describes the manner in which taxpayers notify the Internal Revenue Service (IRS) of revocation of an election to aggregate or disaggregate certain church-related organizations from treatment as a single employer under section 414(c)(2)(C)and(D). Churches and church-related organizations are allowed to make elections to aggregate or disaggregate for this purpose under section 414(c)(2)(C) and (D), which were added to the Code by section 336(a) of the Protecting Americans from Tax Hikes Act of 2015 (Pub. L. 114–113 (129 Stat. 2242 (2015)) (PATH Act).

Current Actions: There is no change to the regulation or burden at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other Not-for-profit; Individuals or households.

Estimated Number of Respondents: 3.

Estimated Time per Respondent: 2 hours.

Estimated Total Annual Burden Hours: 6 hours.

The following paragraph applies to all the collections of information covered by this notice.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained if their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 1, 2022.

Kerry L. Dennis,

Tax Analyst.

[FR Doc. 2022–04626 Filed 3–7–22; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Requesting Comments on Form 8717 and Form 8717–A

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning Form 8717, User Fee for Employee Plan Determination Letter Request, and Form 8717–A, User Fee for Employee Plan Opinion Letter Request.

DATES: Written comments should be received on or before May 9, 2022 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to *omb.unit@irs.gov.* Include OMB Control Number 1545–1772 in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this collection should be directed to Jon Callahan, (737) 800–7639, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *jon.r.callahan@irs.gov.*

SUPPLEMENTARY INFORMATION: The IRS is currently seeking comments concerning the following information collection tools, reporting, and record-keeping requirements:

Title: User Fee for Employee Plan Determination or Opinion Letter Request.

OMB Control Number: 1545–1772.

Form Number: Form 8717 and Form 8717–A.

Abstract: Internal Revenue Code section 7528 requires the payment of user fees for requests to the IRS for ruling letters, opinion letters, and determination letters. Forms 8717 and 8717–A are used by employee plan providers and sponsors to indicate the type of letter request and pay the appropriate user fee.

Current Actions: There is no change to the existing collection; however, the total burden has been reduced due to better estimates.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, and not-for-profit institutions.

Estimated Number of Responses: 9,000.

Estimated Time per Respondent: 2 hours, 38 minutes.

Estimated Total Annual Burden Hours: 23,650.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or start-up costs and costs of operation,

maintenance, and purchase of services to provide information.

Approved: March 3, 2022.

Jon R. Callahan,

Tax Analyst.

[FR Doc. 2022–04895 Filed 3–7–22; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0523]

Agency Information Collection Activity: Loan Analysis

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Benefits Administration, Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before May 9, 2022.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0523'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 1717 H Street NW, Washington, DC 20006, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–0523'' in any correspondence.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: Public Law 104–13; 44 U.S.C. 3501–3521.

Title: Loan Analysis, VA Form 26–6393.

OMB Control Number: 2900–0523.

Type of Review: Extension with change of a currently approved collection.

Abstract: VA Form 26–6393 is currently used by employees of both lending institutions and VA to determine the ability of a borrower to qualify for any type of VA-guaranteed loan authorized by 38 U.S.C. 3710(a). Lenders complete and submit the form to provide evidence that the lender's decision to submit a prior approval loan application or close a loan on the automatic basis is based upon appropriate application of VA credit standards as required by 38 U.S.C. 3710(b) and 3710(g). Section 36.4340, 38 CFR, implements those underwriting standards, which include evaluating income, expenses, and credit history. This form specifically pertains to those standards evaluating a borrower's present and anticipated income and expenses and credit history.

Affected Public: Individuals and households.

Estimated Annual Burden: 280,000 hours.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 560,000.

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. 2022–04808 Filed 3–7–22; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

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Part II

Department of Commerce

Bureau of Industry and Security

15 CFR Parts 734, 736, et al.
Imposition of Sanctions Against Belarus Under the Export Administration Regulations (EAR); Final Rule

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 734, 736, 738, 740, 742, 744, and 746

[Docket No. 220302–0065]

RIN 0694–AI75

Imposition of Sanctions Against Belarus Under the Export Administration Regulations (EAR)

AGENCY: Bureau of Industry and Security, Department of Commerce.

ACTION: Final rule.

SUMMARY: In response to Belarus's substantial enabling of the Russian Federation's (Russia)'s further invasion of Ukraine, this rule is adding new license requirements and review policies for Belarus to the Export Administration Regulations (EAR) to render Belarus subject to the same sanctions that were imposed on Russia under the EAR effective February 24, 2022. These new sanctions impose new Commerce Control List (CCL)-based license requirements for Belarus; revise the two foreign ''direct product'' rules (FDP rules) that are specific to Russia and Russian 'military end users' to make them also applicable to Belarus and Belarusian 'military end users;' specify a license review policy of denial applicable to all of the license requirements on Belarus that are being added in this rule, with certain limited exceptions; significantly restrict the use of EAR license exceptions; expand the existing 'military end use' and 'military end user' control scope to include Belarus for all items ''subject to the EAR'' other than food and medicine designated EAR99; and add two new Belarusian entities to the Entity List as 'military end users.' This rule also imposes a license requirement for nuclear nonproliferation items for exports and reexports to Belarus and removes Belarus from Country Group A:4 under the EAR. In addition, for Belarus and Russia, this rule amends the availability of License Exceptions AVS and ENC and includes clarifying guidance on the availability of CCD.

DATES: This rule is effective on March 2, 2022.

FOR FURTHER INFORMATION CONTACT: For questions on the Entity List and MEU List, contact the Chair, End-User Review Committee, Office of the Assistant Secretary, Export Administration, Bureau of Industry and Security, Department of Commerce, Phone: (202) 482–5991, Fax: (202) 482–3911, Email: *ERC@bis.doc.gov.*

For other questions on this final rule, contact Eileen Albanese, Director, Office of National Security and Technology Transfer Controls, Bureau of Industry and Security, Department of Commerce, Phone: (202) 482–0092, Fax: (202) 482–482–3355, Email: *rpd2@bis.doc.gov.* For emails, include ''Russia and Belarus'' in the subject line.

SUPPLEMENTARY INFORMATION:

I. Background

In response to Russia's February 2022 invasion of Ukraine and Belarus's substantial enabling of this invasion by supporting the staging of Russian military forces on Belarusian territory and supporting the invasion to proceed from such territory, the Bureau of Industry and Security (BIS) imposes extensive sanctions on Belarus by amending the Export Administration Regulations (15 CFR parts 730–774) (EAR). This rule subjects Belarus to the same licensing restrictions under the EAR that were imposed on Russia as part of the final rule, *Implementation of Sanctions Against Russia Under the Export Administration Regulations (EAR),* effective on February 24, 2022 [1] (''Russia Sanctions rule''). This rule also revises the designation for Belarus in the Country Groups in supplement no. 1 to part 740 to impose a license requirement for Nuclear Nonproliferation (NP) column 1 in the Commerce Country Chart in supplement no. 1 to part 738 of the EAR, as described further below.

Russia's invasion of Ukraine, substantially enabled by Belarus, flagrantly violates international law, is contrary to U.S. national security and foreign policy interests, and undermines global order, peace, and security, and therefore necessitates these stringent and expansive sanctions. The Commerce Department's sanctions on both Russia and Belarus are one aspect of the broad U.S. Government response to Russia's unprovoked aggression, along with Belarus's substantial enabling of such aggression, and are being imposed in coordination with allies and partners.

After imposing sanctions on Russia on February 24, 2022, in response to Russia's further invasion of Ukraine, the U.S. Government announced that should Russia encroach further into Ukraine's territory, it would impose additional, comprehensive sanctions with even graver consequences. The U.S. Government made it clear to the government of Belarus that there would be significant consequences should it enable or otherwise facilitate Russian military actions against Ukraine. Notably, State Department spokesman Ned Price told reporters on January 25, 2022 that ''[w]e've also made clear to Belarus that if it allows its territory to be used for an attack on Ukraine, it would face a swift and decisive response from the United States and our allies and partners.''

The export control measures implemented in this final rule protect U.S. national security and foreign policy interests by restricting Belarus's access to items that it needs to support its military capabilities and preventing such items from being diverted through Belarus to Russia. These items include sophisticated technologies designed and produced in the United States, as well as certain foreign-produced items that contain or are based on U.S.-origin technology and software subject to the EAR or other technology and software that is subject to the EAR that are essential inputs to Belarus's and Russia's key technology and other sectors.

BIS is primarily targeting the Belarusian defense, aerospace, and maritime sectors with these new export controls. These export controls include controls on the export from abroad of certain foreign-produced items that are subject to the EAR. Given the global prevalence of U.S.-origin software, technology, and equipment (including tooling) used in advanced equipment and systems, these new controls, implemented in parallel with similarly stringent measures by partner and allied countries, will cover a broad scope of items that Belarus seeks to advance its military capabilities or to provide to the Russian government to enable the latter's projection of power and fulfillment of its strategic ambitions.

II. Overview of New Controls

BIS is implementing a new license requirement for Belarus on items subject to the EAR and classified under any Export Control Classification Number (ECCN) in Categories 3 through 9 of the Commerce Control List, supplement. no. 1 to part 774 of the EAR (CCL). The new license requirement is added under new § 746.8(a)(1) (Russia and Belarus sanctions) in part 746 of the EAR (Embargoes and Other Special Controls). License exceptions described in § 746.8(c)(1)–(7) may be used to overcome the license requirement. When a license application is required, applications for such items will be subject to a policy of denial. However, to minimize unintended consequences, a case-by-case review policy applies to applications to export, reexport, or transfer (in-country) items that ensure

[1] FR 2022–04300, scheduled to publish 3/3/2022.

safety of flight, ensure maritime safety, applications for civil nuclear safety, meet humanitarian needs, enable government space cooperation, and allow transactions for items destined to specified Western subsidiaries and joint ventures, support civil telecommunications infrastructure in certain countries, and government-to-government activities. The case-by-case review policy will be used to determine whether a transaction that meets the criteria above would benefit the Belarusian government or defense sector or present a risk of diversion to Russia. Additionally, BIS is revising two foreign ''direct product'' rules (FDP rules) in § 734.9 of the EAR that were added to the EAR in the Russia Sanctions rule to add Belarus to the scope of these two FDP rules. The first FDP rules now relates to both Russia and Belarus, as described in revised § 734.9(f) (the ''Russia/Belarus FDP rule''). Foreign-produced items subject to the EAR under the Russia/Belarus FDP rule will be subject to the license requirement described in new § 746.8(a)(2) but will be eligible for certain license exceptions described in § 746.8(c)(1)–(7). When a license application is required, it will be subject to a general policy of denial but will be subject to case-by-case review for certain circumstances described further in § 746.8(b).

The second FDP rule now targets both Russian and Belarusian 'military end users,' as described in revised § 734.9(g) (the ''Russia/Belarus-MEU FDP rule''), with the revisions made in this rule. Foreign-produced items subject to the EAR under the Russia/Belarus-MEU FDP rule will be subject to the license requirement described in new § 746.8(a)(3). No license exceptions are available to overcome this license requirement, except as specified in the Entity List entry for a footnote 3 entity on the Entity List in supplement no. 4 to part 744 of the EAR, and such items will be subject to a policy of denial for all license applications, as described in § 746.8(b).

BIS has determined that certain countries are committed to implementing substantially similar export controls as part of their domestic sanctions against Russia and Belarus. These countries are identified in supplement No. 3 to part 746 (Russia and Belarus Exclusions List). They are excluded from the requirements of the Russia/Belarus FDP rule and the Russia/Belarus MEU FDP rule and the *de minimis* provisions under supplement No. 2 to part 734 with respect to ECCNs that either specify only Anti-terrorism (AT) in the reason for controls paragraph of the ECCN or are classified under ECCN 9A991. This exclusion may be full or partial, as noted in the Scope column of the Russia and Belarus Exclusions List and may only apply when the criteria specified in § 746.8(a)(4) or (5) are met.

As part of this rule, BIS is also adding Belarus as a country subject to 'military end use' and 'military end user' controls under § 744.21 of the EAR, thereby rendering Belarus subject to the expanded scope of the Russia Sanctions rule (*i.e.,* a license is required for all items ''subject to the EAR'' except food and medicine designated EAR99. This rule also adds two Belarusian entities to the Entity List with a license requirement for the export, reexport, and transfer (in-country) of all items ''subject to the EAR,'' including those items subject to the Russia/Belarus/MEU FDP rule that applies to 'military end users' in Belarus.

This rule removes the exclusion that was previously available for eight Russian 'military end-users'' for ECCNs 5A992.c and 5D992.c when not for Russian ''government end users'' and Russian state-owned enterprises (SoEs) from the license requirements under §§ 746.8(a)(3) and 744.21(b). This rule also makes updates to § 746.8(c)(6), to use alternate criteria to reduce the risk of diversion.

III. Amendments to the Export Administration Regulations (EAR)

A. Making Belarus Subject to the Sanctions Recently Imposed on Russia

Addition of Expansive License Requirements, Restrictive License Review Policies, and Restrictions on License Exception Eligibility for Belarus

Consistent with the sanctions imposed on Russia as part of the Russia Sanctions rule, this rule adds expansive license requirements on Belarus, with similarly restrictive license review policies and restrictions on license exception eligibility. Specifically, this final rule revises § 746.8 to impose new sanctions against Belarus in part 746 of the EAR (Embargoes and Other Special Controls). Under paragraph (a) (License Requirements) of this section, this rule imposes three distinct types of license requirements. The first requirement, set forth in paragraph (a)(1) is specific to the export, reexport and transfer (in-country) of items in categories 3, 4, 5, 6, 7, 8, or 9 of the CCL. The second and third requirements, set forth in paragraphs (a)(2) and (3) are specific to reexport, export from abroad, and transfer (in-country) of foreign-produced ''direct products'' subject to the EAR under the Russia/Belarus FDP rule or the Russia/Belarus MEU FDP rule.

1. Section 746.8(a)(1) License Requirement

Revises § 746.8(a)(1) (Items classified in an ECCN in CCL Categories 3 through 9) is supplemental to the license requirements found elsewhere in the EAR. Under this paragraph, a license is required for the export, reexport, or transfer (in-country) to or within Belarus of any item subject to the EAR and specified in an ECCN in Categories 3, 4, 5, 6, 7, 8, or 9 of the CCL, excluding deemed exports and deemed reexports. These new controls on Belarus mirror the broad controls imposed on Russia as part of the Russia Sanctions rule. In implementing these controls on Belarus, BIS is imposing broad transfer (in-country) requirements on an entire country, as it did on Russia, a restriction that reflects the significance of the U.S. national security and foreign policy concerns resulting from Belarus's substantial enabling of Russia's further invasion of Ukraine. These new license requirements are intended to restrict items to and within Belarus, thereby reducing the risk of diversion to the Russian military and Russian defense sector. Additionally, paragraph (a)(1) extends EAR license requirements to many items that did not previously require a license to Belarus on the basis of their CCL classification alone, such as the parts and components used in civil aircraft controlled under ECCN 9A991.d. Although these items generally are controlled at a lower level under the EAR, they are still necessary for the functioning of aircraft, vessels and electronic items. As such, restrictions on these items can significantly limit Belarus's ability to obtain items that it is not able to produce and reduce the risk of their possible diversion to Russia. In addition, with these new license requirements, additional items will be treated as controlled U.S.-origin content for purposes of *de minimis* calculations under supplement no. 2 to part 734 of the EAR, except as described in § 746.8(a)(5). BIS estimates that these new controls will result in an additional 20 license applications being submitted to BIS annually.

2. Section 746.8(a)(2) License Requirement for the Russia/Belarus FDP Rule

Revised paragraph (a)(2) (Foreign produced ''direct product'' items subject to the EAR under the Russia/Belarus FDP rule) requirements are now expanded to apply to Belarus with this final rule. The Russia/Belarus FDP rule establishes a license requirement for foreign-produced items that meet

certain product scope and destination scope requirements in § 734.9(f) of the EAR. Specifically, the Russia/Belarus FDP rule makes the ''direct product'' of a wide range of CCL software and technology, or items produced by a complete plant or 'major component' of a plant that itself is the ''direct product'' of such U.S.-origin technology or software, subject to the EAR when it is known that the foreign-produced item is destined to Belarus or will be incorporated into or used in the ''production'' or ''development'' of any ''part,'' ''component,'' or ''equipment'' produced in or destined to Belarus. Notably, the product scope of the Russia/Belarus FDP rule does not include items designated EAR99 that are produced by ''technology'' or ''software'' as described in § 734.9(f)(1)(i) or by a complete plant or 'major component' of a plant as described in § 734.9(f)(1)(ii). The Russia/Belarus FDP rule is described in greater detail below.

Under paragraph (a)(2), a license is required for the reexport, export from abroad, or transfer (in-country) of any foreign-produced items subject to the EAR under the Russia/Belarus FDP rule described in § 734.9(f) of the EAR to any destination. The phrase 'any destination' is used to address situations involving multi-step manufacturing processes that occur in more than one country or within a single country and in which the parties involved have ''knowledge'' that the foreign-produced item being produced will ultimately be reexported or exported from abroad to Belarus. The license requirements under paragraph (a)(2) will apply to the reexports or exports from abroad from manufacturing country 1 to manufacturing country 2 (each contributing to the production chain), when there is ''knowledge'' that the reexport or export from abroad of the item is ultimately destined to Belarus or incorporated into or used in the production or development of any part component or equipment (not designated EAR99) produced in or ultimately destined to Belarus.

BIS estimates new license requirements under § 746.8(a)(2) will result in an additional 100 license applications being submitted to BIS annually.

3. Section 746.8(a)(3) License Requirement for the Russia/Belarus MEU FDP Rule

This rule revises paragraph (a)(3) (Foreign-produced ''direct product'' items subject to the EAR under Russia/Belarus Military End User FDP rule) of § 746.8 to add Belarus. As applied to Russia as part of the Russia Sanctions rule, the Russia Military End User FDP rule established a license requirement for foreign-produced items that meet certain product scope and destination scope requirements in § 734.9(g) of the EAR. This FDP rule is now being revised to also include Belarusian 'military end users.' The Russia/Belarus MEU FDP rule makes the ''direct product'' of any CCL software or technology subject to a license requirement (*i.e.,* any software or technology in an ECCN in any category of the CCL subject to the EAR, or items produced by a plant or major component of a plant that itself is the ''direct product'' of such U.S.-origin technology or software) when it is known that the foreign-produced item will be incorporated into, or will be used in the ''production'' or ''development'' of any ''part,'' ''component,'' or ''equipment'' produced, purchased, or ordered by any entity with a footnote 3 designation in the license requirement column of the Entity List. Notably, the product scope of the Russia/Belarus MEU FDP rule includes items designated EAR99 that are a ''direct product'' of ''technology'' or ''software'' described in § 734.9(g)(1)(i) or produced by a complete plant or 'major component' of a plant as described in § 734.9(g)(1)(ii). The Russia/Belarus MEU FDP rule is described in greater detail below.

Section 746.8(a)(3) specifies that except as described in paragraph (a)(4) of this section, a license is required to reexport, export from abroad, or transfer (in-country), to any destination, any foreign-produced item subject to the EAR under § 734.9(g) of the EAR other than food or medicine designated as EAR99. Because the Russia/Belarus MEU FDP rule includes ''software'' and ''technology'' in ECCNs in Categories 0, 1 and 2 (in addition to the other 7 categories of the CCL), the likelihood that EAR99 food and medicine foreign direct products could be subject to the EAR increases. To the extent that the direct product of ECCN 0, 1, or 2 ''software'' or ''technology'' may encompass EAR99 food or medicine, this rule exempts those items from the license requirement. For the same reasons noted above in connection with paragraph (a)(2), this final rule also uses the phrase 'any destination.'

4. Countries Excluded From Certain Russia/Belarus License Requirements Under Section 746.8

This final rule also revises paragraph (a)(4) (Exclusion from license requirements under paragraphs (a)(2) and (3)) in § 746.8 to identify countries that BIS has determined are committed to implementing substantially similar export controls as part of their domestic sanctions against Belarus as well as Russia. The change made in this rule is limited to adding Belarus to the scope of the exclusion. These countries warrant full or partial exclusions, as appropriate, from the requirements set forth under paragraphs (a)(2) and (3) as identified in supplement No. 3 to part 746 (Russia and Belarus Exclusions List). Similarly, this final rule revises paragraph (a)(5) (Exclusion from scope of U.S.-origin controlled content under paragraph (a)(1)) to carve out certain content from the scope of U.S.-origin controlled content for *de minimis* purposes under supplement No. 2 to part 734 of the EAR when making a *de minimis* calculation for Belarus. Paragraph (a)(5) specifies that the license requirements in paragraph (a)(1) of this section are not used to determine controlled U.S.-origin content in a foreign-made item, provided that: The U.S.-origin content is described in ECCNs that either specify only Anti-terrorism (AT) in the reason for controls paragraph of the ECCN or is classified under ECCN 9A991 and is included in the Scope column of the Russia and Belarus Exclusions List; and the foreign-made item will be reexported or exported to Russia or Belarus from a country on the Russia and Belarus Exclusions List.

Excluded countries for purposes of § 746.8 are identified in supplement no. 3 to part 746—Countries Excluded from Certain Russia and Belarus License Requirements, also known as the Russia and Belarus Exclusions List. This rule updates the introductory text of the supplement to add Belarus.

5. Licensing Policy for Applications Required Under § 746.8

Under paragraph (b) (Licensing Policy) of § 746.8, applications for the export, reexport or transfer (in-country) of items to Russia that require a license under new paragraph (a)(1) and (2) will be reviewed, with certain limited exceptions, under a policy of denial. This rule amends this paragraph to apply the same licensing policy of denial to Belarus and also subject Belarus to case-by-case review for the same limited categories of transactions. Specifically, license applications for certain categories of exports, reexports, and transfers (in-country) will be reviewed on a case-by-case basis to determine whether the transaction would benefit the Belarusian government or defense sector. These categories are as follows: Applications related to safety of flight, related to

maritime safety, to meet humanitarian needs, in support of government space cooperation; and applications for companies headquartered in Country Groups A:5 and A:6 to support civil telecommunications infrastructure, or involving government-to-government activities. In addition, applications for items destined to certain companies operating in Russia or Belarus will be reviewed on a case-by-case basis if the companies are: (1) Wholly-owned U.S. subsidiaries; (2) foreign subsidiaries of U.S. companies that are joint ventures with other U.S. companies, (3) joint ventures of U.S. companies with companies headquartered in Country Group A:5 and A:6 in supplement no. 1 to part 740 countries, (4) wholly-owned subsidiaries of companies headquartered in Country Group A:5 and A:6 in supplement no. 1 to part 740 countries, or (5) joint ventures of companies headquartered in Country Group A:5 and A:6 with other companies headquartered in Country Groups A:5 and A:6. The case-by-case review policy does not apply to Belarusian-headquartered companies. This final rule also specifies in paragraph (b) that license applications required under paragraph (a)(3) will be reviewed under a policy of denial in all cases.

6. License Exceptions for Section 746.8 License Requirements

Lastly, under paragraph (c) (License Exceptions), this final rule specifies that certain license exceptions that apply to § 746.8(a)(1) and (2) for transactions involving Russia similarly apply for transactions involving Belarus. Specifically, the license exceptions that now apply to Belarus are: Certain sections of License Exception TMP for items for use by the news media, § 740.9(a)(9); License Exception GOV, § 740.11(b); License Exception TSU for software updates for civil end users provided those civil end users are subsidiaries or joint ventures of companies headquartered in the United States or a country or countries from Country Groups A:5 or A:6, § 740.13(c); License Exception BAG, excluding firearms and ammunition (paragraph (e)), § 740.14; License Exception AVS (which now excludes any aircraft registered in, owned, or controlled by, or under charter or lease by Russia or a national of Russia under this rule), § 740.15(a) and (b); License Exception ENC, with its eligibility for purposes of § 746.8(c)(6) being narrowed in this rule and now being limited to only civil end-users that are wholly-owned U.S. subsidiaries, foreign subsidiaries of U.S. companies that are joint ventures with other U.S. companies, joint ventures of U.S. companies with companies headquartered in countries from Country Group A:5 and A:6 in supplement no. 1 to part 740 of the EAR countries, the wholly-owned subsidiaries of companies headquartered in countries from Country Group A:5 and A:6, or joint ventures of companies headquartered in Country Group A:5 and A:6 with other companies headquartered in Country Groups A:5 and A:6. Paragraph (c) specifies that no license exceptions in connection with transactions involving Belarus may overcome the license requirements in paragraph (a)(3) except as specified in the Entity List entry for a footnote 3 entity on the Entity List in supplement no. 4 to part 744 of the EAR, which is consistent with the fact that entities on the Entity List are generally not eligible for license exceptions.

B. Russia and Belarus—FDP Rules

In § 734.9 (Foreign-Direct Product (FDP) Rules), this final rule revises the two Foreign-Direct Product (FDP) rules that were added to the EAR as part of the Russia Sanctions rule by adding Belarus as a second country subject to FDP rules. The first of these two FDP rules targets Belarus as a destination, and the second targets Belarusian 'military end users' by revising the headings of paragraphs (f), (f)(1) and (2), and (g), and (g)(1) and (2) to add Belarus.

1. Addition of Belarus to the Russia FDP Rule

This rule establishes that a foreign-produced item located outside the United States is subject to the EAR if it meets both the product scope in paragraph (f)(1) of § 734.9 and the destination scope in paragraph (f)(2) of § 734.9 for Belarus. License requirements, license review policy, and license exceptions applicable to the foreign-produced items that are subject to the EAR pursuant to this paragraph (f) are identified in § 746.8, as described above. Product scope for the Russia/Belarus FDP rule is defined in paragraph (f)(1)(i) (''Direct product'' of ''technology'' or ''software'') and paragraph (f)(1)(ii) (''Direct product'' of a complete plant or major component of a plant).

The criteria in paragraph (f)(1)(i) apply to a foreign-produced item that is not designated EAR99 and that is the ''direct product'' of U.S.-origin ''technology'' or ''software'' specified in any ECCN in product groups D or E in Categories 3, 4, 5, 6, 7, 8, or 9 of the CCL. The criteria in paragraph (f)(1)(ii) apply to a foreign-produced item that is not designated EAR99 and is produced by any plant or 'major component' of a plant that itself is a ''direct product'' of U.S.-origin ''technology'' or U.S.-origin ''software'' and specified in any ECCN in product groups D or E in Categories 3, 4, 5, 6, 7, 8, or 9 of the CCL. This is an expansive list of ''technology'' and ''software,'' which will result in many additional foreign-produced items being considered ''subject to the EAR'' compared to the other FDP rules set forth in the EAR that applied to Belarus prior to the publication of this rule. The additional foreign-produced items that will be ''subject to the EAR'' will be subject to the new license requirements imposed through this rule under the § 746.8 (Sanctions Against Russia), as described above.

For a foreign-produced item to be subject to the EAR under the Russia/Belarus FDP rule, the criteria in § 734.9(f)(2) (Destination scope of the Russia/Belarus FDP rule) must also be met. Revised paragraph (f)(2) specifies that a foreign-produced item meets the destination scope of the Russia/Belarus FDP rule if there is ''knowledge'' that the foreign-produced item is destined to Russia or Belarus, or will be incorporated into, or used in the ''production'' or ''development'' of any ''part,'' ''component,'' or ''equipment'' not designated EAR99 and produced in or destined to Russia or Belarus.

2. Addition of Belarus to the Russia-Military End User (Russia-MEU) FDP Rule

Paragraph (g) of § 734.9 is renamed as the Russia/Belarus MEU FDP rule and now targets Belarusian as well as Russian 'military end users.' To address the significant support that these Belarusian 'military end users' provide to the Belarusian military, this more expansive FDP rule is warranted for these identified 'military end users' compared to the FDP rules that apply to certain destinations under the EAR. A foreign-produced item located outside the United States is subject to the EAR if it meets both the product scope in paragraph (g)(1) of § 734.9 and the destination scope in paragraph (g)(2). License requirements, license review policy, and license exceptions applicable to the foreign-produced items that are subject to the EAR pursuant to paragraph (g), which are now identified in § 746.8, are described above.

This final rule revises paragraph (g)(1)(i) (''Direct product'' of ''technology'' or ''software'') and paragraph (g)(1)(ii) (''Direct product'' of a complete plant or major component of a plant) to define the product scope for

the Russia/Belarus MEU FDP rule. The criteria in paragraph (g)(1)(i) extends to the ''direct product'' of ''technology'' or ''software'' subject to the EAR and specified in any ECCN in product groups D or E in any category of the CCL. Paragraph (g)(1)(ii) applies to a foreign-produced item that is produced by a plant or 'major component' of a plant that itself is a ''direct product'' of U.S.-origin ''technology'' or U.S.-origin ''software'' subject to the EAR and specified in any ECCN in product groups D or E in any category of the CCL, which is an expansive list of ''technology'' and ''software.'' These changes will result in many additional foreign-produced items being considered ''subject to the EAR'' compared to the other existing FDP rules for these Belarusian 'military end users.' The additional foreign-produced items that will be ''subject to the EAR'' will be subject to the new license requirements being imposed as part of the sanctions against Belarus set forth in revised § 746.8.

For a foreign-produced item to be subject to the EAR, the criteria in paragraph (g)(2) (End-user scope of the Russia/Belarus MEU FDP rule) must be met. Paragraph (g)(2) specifies that a foreign-produced item meets the destination scope of the Russia/Belarus MEU FDP rule if there is ''knowledge'' as specified in paragraph (g)(2)(i) (Activities involving Footnote 3 designated entities) that a foreign-produced item will be incorporated into, or will be used in the ''production'' or ''development'' of any ''part,'' ''component,'' or ''equipment'' produced, purchased, or ordered by any entity with a footnote 3 designation in the license requirement column of the Entity List in supplement No. 4 to part 744 of the EAR.

Footnote 3 to the Entity List now also applies to Belarusian 'military end users' added to the Entity List as described below. Footnote 3 to the Entity List includes a cross reference to §§ 734.9(g), 746.8, and 744.21. As specified in paragraph (g)(2) of § 734.9, any entity with a footnote 3 designation in the license requirement column of the Entity List is a party to any transaction involving the foreign-produced item, *e.g.,* as a ''purchaser,'' ''intermediate consignee,'' ''ultimate consignee,'' or ''end-user.'' Note 3 to paragraph (g) is revised to specify that for purposes of paragraph (g), a 'military end user' is any entity listed on the Entity List with a footnote 3 designation.

C. Conforming Changes and Corrections and Clarifications

Based on the foregoing changes to the EAR, this final rule also makes certain conforming revisions to the Commerce Country Chart in supplement No. 1 to part 738; the Consumer Communication Devices license exceptions in § 740.19; and certain licensing review policies in part 742. These conforming revisions add references to Belarus to each of these EAR provisions, mirroring the addition of Russia to these provisions made as part of the Russian Sanctions Rule.

1. Commerce Country Chart Changes

In supplement no. 1 to part 738—Commerce Country Chart, as a conforming change, this final rule revises footnote 6 to add a reference to Belarus, so exporters, reexporters, and transferors are aware of the need to also review license requirements in § 746.8 for items listed in any ECCN in Categories 3, 4, 5, 6, 7, 8, or 9 of the CCL, as well as the exclusion for countries identified in supplement no. 3 to part 746.

Also on the Country Chart, this final rule adds a ''X'' in the nuclear nonproliferation (NP) column 1 for Belarus. A license is now required for exports and reexports to Belarus for NP:1 items under the EAR. Requiring a license for NP:1 reasons for Belarus will control these NP:1 items in the same manner as if they are destined for Russia, another Nuclear Suppliers Group member that BIS has determined warrants the imposition of an NP:1 license requirement under the EAR. BIS estimates that these revisions to impose a license requirement for NP:1 items for Belarus will result in an additional 10 license applications being submitted to BIS annually.

Lastly, on the Country Chart, this final rule adds a ''X'' in the NP column 2 for Belarus and Russia. A license is now required for exports and reexports to Belarus and Russia for NP:2 items under the EAR. Requiring a license for NP:2 reasons for Belarus and Russia is warranted to include as part of these sanctions against Belarus and Ukraine. This decision to impose an NP:2 license requirement also takes into account that both Belarus and Russia are now designated in Country Group D:2 as countries of concern for nuclear proliferation concern. BIS estimates that these revisions to impose a license requirement for NP:1 items for Belarus and Russia will result in an additional 60 license applications being submitted to BIS annually. As a conforming change for the imposition of a license requirement for NP:2 for Belarus and Russia, the final rule revises § 742.3(b)(4) to specify there is a case-by-case license review policy when the export, reexport or transfer (in-country) is in support of Russian manufactured nuclear power plants in Russia or other destinations will be reviewed on a case-by-case basis.

2. Commerce Country Groups Changes

This final rule revises the Commerce Country Groups in supplement no. 1 to part 740 to remove the ''X'' in the column for Country Group A:4 Nuclear Suppliers Group. As a conforming revision, this final rule revises footnote 3 to supplement no. 1 to part 740 to add Belarus to specify that Group A:4 is a list of the Nuclear Suppliers Group countries, except for the People's Republic of China, Russia, and Belarus.

This final rule also revises the Commerce Country Groups to add an ''X'' in the column for Country Group D:2 Nuclear and D:4 Missile Technology to reflect that Belarus is a country of concern for both nuclear proliferation and missile technology proliferation. The inclusion in these two Country Groups will mean additional restrictions in terms of the use of EAR license exceptions, as well as some additional licenses requirements that will be applicable, such as under § 744.3(a)(1) and (3), which has a prohibition for missile technology end use that applies to Country Group D:4 countries, which now include Belarus.

3. License Exception Changes

This final rule amends License Exception CCD (§ 740.19), which was previously limited to Cuba and Russia (the latter added as part of the Russia Sanctions rule), by adding Belarus as an additional eligible destination.

In § 740.19(a) (Authorizations), and in the introductory text of paragraph (b) (Eligible commodities and software), this rule adds Belarus. BIS reminds exporters, reexporters, and transferors that the terms and conditions of License Exception CCD excludes non-consumer servers and for servers received under License Exception CCD those must be exported, reexported, and transferred (in-country) in accordance with the terms and conditions. Consumer servers for home or personal use that may be authorized under License Exception CCD are intended to make it harder for the Russian government to control the message getting to the Russian people.

Additionally, under paragraph (c)(1) (Organizations), this final rule revises paragraph (c)(1)(i), which identifies eligible end users for License Exception CCD, to add Belarus. The revision to

paragraph (c)(1)(i) specifies that License Exception CCD is limited to the export, reexport, or transfer (in-country) of eligible commodities and software to and for the use of independent non-governmental organizations in Belarus. This final rule also adds the Belarusian Government to the exclusions under paragraph (c)(1)(ii) and adds a new paragraph (c)(1)(iv) (Ineligible Belarusian Government Officials) to exclude the specified officials from receiving commodities and software under License Exception CCD. Only the end users named as eligible in paragraph (c) may receive the commodities and software eligible under License Exception CCD.

This rule also makes changes to § 746.8(c) as it relates to the availability of License Exceptions AVS and ENC. This rule revises section 746.8(c)(5) to exclude any aircraft registered in, owned, or controlled by, or under charter or lease by Russia or a national of Russia from using License Exception AVS under § 740.15(a) and (b) of the EAR. BIS takes this measure concurrently with the U.S. Department of Transportation and its Federal Aviation Administration, which have issued orders blocking Russian aircraft and airlines from entering and using all domestic U.S. airspace.

This rule revises § 748.6(c)(6) to narrow the scope of License Exception ENC that is available to overcome the license requirement sunder § 748.6(a)(1) and (2). License Exception ENC, with its eligibility for purposes of § 746.8(c)(6) being narrowed in this rule and now being limited to only civil end-users that are wholly-owned U.S. subsidiaries, foreign subsidiaries of U.S. companies that are joint ventures with other U.S. companies, joint ventures of U.S. companies with companies headquartered in countries from Country Group A:5 and A:6 in supplement no. 1 to part 740 of the EAR countries, the wholly-owned subsidiaries of companies headquartered in countries from Country Group A:5 and A:6, or joint ventures of companies headquartered in Country Group A:5 and A:6 with other companies headquartered in Country Groups A:5 and A:6.

4. Part 742 (Control Policy—CCL Based Controls) Revisions

In part 742, as conforming revisions to the license review policy of denial added under paragraph (b) to new § 746.8, this final rule makes revisions to license review policies in five sections: 742.2 (Proliferation of chemical and biological weapons), 742.3 (Nuclear nonproliferation), 742.4 (National security), 742.5 (Missile technology), and 742.6 (Regional stability).

Under § 742.2, this final rule revises the second sentence of paragraph (b)(4) to specify that a license review policy of denial applies to Belarus. This final rule revises two sentences to clarify that certain items, such as items to Russia and Belarus in support of U.S.-Russia and U.S.-Belarusian civil space cooperation activities, are reviewed on a case-by-case basis as specified under § 746.8(b).

In both §§ 742.3 and 742.5, this final rule revises the second sentence of paragraph (b)(4) to specify that a license review policy of denial applies to Belarus. This final rule revises one sentence in §§ 742.3 and 742.5 to refer to Belarus, thereby clarifying that certain items, such as items to Russia and Belarus in support of U.S.-Russia and U.S.-Belarusian civil space cooperation activities, are reviewed on a case-by-case basis as specified under § 746.8(b).

Under § 742.4, this final rule also revises paragraph (b)(9), which states that all applications for Russia will be reviewed in accordance with the licensing policy set forth in § 746.8(b), to add a reference to Belarus, which is now also subject to the license review policy.

Under § 742.6, this final rule revises paragraph (b)(9), to specify that all applications for Belarus will be reviewed in accordance with the licensing policy set forth in § 746.8(b), as well as being reviewed in accordance with the foreign policy interest of promoting the observance of human rights throughout the world and consistent with United States arms embargo policies in § 126.1 of the ITAR (22 CFR 126.1).

5. Change in Scope of License Requirements for ECCN 5A992 and 5D992

In § 746.8, this rule revises the paragraph (a)(1) introductory text to add an exclusion from the license requirements of paragraphs (a)(1) and (2). The rule revises paragraph (a) introductory text that for purposes of paragraphs (a)(1) and (2), commodities and software classified under ECCNs 5A992 or 5D992 do not require a license to or within Russia or Belarus for civil end-users that are wholly-owned U.S. subsidiaries, foreign subsidiaries of U.S. companies that are joint ventures with other U.S. companies, joint ventures of U.S. companies with companies headquartered in countries from Country Group A:5 and A:6, the wholly-owned subsidiaries of companies headquartered in countries from Country Group A:5 and A:6, or joint ventures of companies headquartered in Country Group A:5 and A:6 with other companies headquartered in Country Groups A:5 and A:6.

D. Changes to 'Military End Use' and 'End User' Controls for Belarus

This final rule revises the scope of the 'military end use' and 'military end user' controls under § 744.21 of the EAR to reflect the imposition of such controls for Belarus. Additionally, these new controls will apply broadly to all items ''subject to the EAR'' (the same scope of items that applies to Russia). As a result of the expanded controls for Belarus for 'military end users' and 'military end uses,' BIS is revising the Entity List in supplement No. 4 to part 744 to make conforming changes. Accordingly, this final rule revises § 744.21 as follows to reflect the expanded 'military end use' and 'military end user' controls for Belarus:

This final rule revises the heading of § 744.21 to add Belarus.

In paragraph (a), this final rule revises the first sentence to add a reference to Belarus after Russia to specify that the same scope of license requirements and exclusions will apply to Belarus. This final rule will require a license for all items subject to the EAR for Belarusian 'military end use' and 'military end users' except for food or medicine designated as EAR99. As revised by this rule, the prohibition is broader for Belarus (and Russia) than for the other countries subject to the requirements of § 744.21.

BIS is revising paragraph (b)(1) ('Military End-User' (MEU) List) to provide guidance for Belarusian entities placed on the Entity List based on § 744.21(b). This final rule specifies that such entities may be added to supplement No. 4 of part 744—the Entity List—and are subject to license requirements that apply to all items ''subject to the EAR'' except for food or medicine designated as EAR99.

Under paragraph (b)(1)(ii) (License requirements for parties to the transaction), this final rule also revises paragraph (b)(1)(ii) to add Belarus to the sentence that clarifies that, for purposes of Belarus (as well as Russia), a license requirement applies to all items subject to the EAR for entities listed in supplement no. 4 to part 744 (the Entity List) pursuant to § 744.21 when such an entity is a party to the transaction as described in § 748.5(c) through (f) of the EAR. These changes are necessary because, with the publication of this final rule, the license requirements for Belarus, along with those for Russia, are

broader than for the other four countries.

Under paragraph (e) (License review standards), this final rule revises one sentence to specify that the license review policy for applications to or within Belarus subject to the license requirements described in paragraph (a) will be a policy of denial. This policy is identical to the policy that applies to Russia.

BIS estimates that these changes to § 744.21 will result in an additional 20 license applications being submitted to BIS annually.

E. Changes to Military-Intelligence End Uses or End Users Controls for Belarus

This rule also adds Belarus to the countries subject to the 'military-intelligence end use' and 'military-intelligence end user' (MIEU) restrictions in § 744.22 of the EAR. In addition to the license requirements for items specified on the CCL, § 744.22 prohibits the export, reexport, or transfer (in-country) without a license of items subject to the EAR to Burma, China, the Russian Federation, Venezuela, or a country listed in Country Group E:1 or E:2. With the publication of this rule, Belarus is now added to the countries subject to this license requirement. Such exports, reexports, or transfers (in-country) require a license if, at the time of the export, reexport, or transfer (in-country), the exporter, reexporter, or transferor (in-country) has ''knowledge,'' as defined in § 772.1 of the EAR that the item is intended, entirely or in part, for a 'military-intelligence end use,' or 'military-intelligence end user,' in Belarus, Burma, Cambodia, China, the Russian Federation, Venezuela or the countries listed in Country Group E:1 or E:2. Applications submitted for the export or reexport to Belarus, or transfer within Belarus, of an EAR item under this section will be reviewed with a presumption of denial.

This final rule as a conforming change also revises Section 736.2(b)(7)(i)(5) to add a reference to Belarus.

This rule also adds a new paragraph (f)(2)(x) for Belarus to identify The Main Intelligence Directorate of the General Staff of the Armed Forces of Belarus as a 'military-intelligence end user.'

With this amendment to § 744.22 of the EAR, BIS is also revising § 744.6(b)(5) of the EAR to restrict specific activities of ''U.S. persons'' in connection with a 'military-intelligence end use' or 'military-intelligence end user' in Belarus. BIS estimates that these new controls under §§ 744.6(b)(5) and 744.21 will result in an additional 5 license applications being submitted to BIS annually.

F. Entity List Changes for Belarusian Entities

Under § 744.11(b) (Criteria for revising the Entity List), entities for which there is reasonable cause to believe, based on specific and articulable facts, that the entities have been involved, are involved, or pose a significant risk of being or becoming involved in activities that are contrary to the national security or foreign policy interests of the United States, and those acting on behalf of such entities, may be added to the Entity List. Paragraphs (b)(1) through (5) of § 744.11 provide an illustrative list of activities that could be considered contrary to the national security or foreign policy interests of the United States. The Entity List in supplement no. 4 to part 744 identifies the entities so designated. The EAR imposes additional license requirements on, and limit the availability of most license exceptions for, exports, reexports, and transfers (in-country) when an entity that is listed on the Entity List is a party to the transaction as described in § 748.5(c) through (f) of the EAR. The license review policy for each listed entity is identified in the ''License Review Policy'' column on the Entity List, and the impact on the availability of license exceptions is described in the relevant **Federal Register** document adding entities to the Entity List. BIS places entities on the Entity List pursuant to part 744 (Control Policy: End-User and End-Use Based) and part 746 (Embargoes and Other Special Controls) of the EAR. As discussed further below, the two entities being added in this rule will receive a footnote 3 designation because the ERC has determined they are 'military end users' in accordance with § 744.21.

The ERC, composed of representatives of the Departments of Commerce (Chair), State, Defense, Energy and, where appropriate, the Treasury, makes all decisions regarding additions to, removals from, or other modifications to the Entity List. The ERC makes all decisions to add an entry to the Entity List by majority vote and all decisions to remove or modify an entry by unanimous vote. Decisions on Entity entries may also be made by higher-level officials of agencies represented on the ERC.

1. Additions to the Entity List

This rule implements the decision of the ERC to add two entities—JSC Integral and The Ministry of Defence of the Republic of Belarus, including the Armed Forces of Belarus and all operating units wherever located. The entry for the Ministry of Defence of the Republic of Belarus includes the national armed services (armyor air force), as well as the national guard and national police, government intelligence or reconnaissance organizations of the Republic of Belarus. These two entities will be added to the Entity List under the destination Belarus. These entities will be added on the basis of §§ 744.11(b) and 744.21 and will be designated with footnote 3 because they are 'military end users.' Both entities are being added to the Entity List for being involved in activities that are contrary to U.S. national security and foreign policy interests, which include but are not limited to being closely aligned with the Russian military and helping to facilitate Belarus's substantial enabling of Russia's further invasion of Ukraine. Pursuant to §§ 744.11(b)(5) and 744.21(e) and footnote 3 of the EAR, the ERC determined that the conduct of the above-described two entities raise sufficient concerns that prior review, via the imposition of a license requirement for exports, reexports, or transfers (in-country), of all items subject to the EAR. Moreover, as footnote 3 provides, a license is required to reexport, export from abroad, or transfer (in-country) to or within any destination any foreign-produced item subject to the EAR under § 734.9(g) of the EAR other than food or medicine designated as EAR99. As provided in § 744.21(e), license applications will be reviewed under a policy of denial. No EAR license exceptions are available for these entities.

For the reasons described above, this final rule adds the JSC Integral and The Ministry of Defence of the Republic of Belarus, including the Armed Forces of Belarus, to the Entity List.

Belarus

- JSC Integral; *and*
- The Ministry of Defence of the Republic of Belarus, including the Reserve Forces (Army and Air Force), as well as the National Guard and National Police, Government Intelligence or Reconnaissance Organizations of the Republic of Belarus.

The acronym ''a.k.a.,'' which is an abbreviation of ''also known as,'' is used in entries on the Entity List to identify aliases, thereby assisting exporters, reexporters, and transferors in identifying entities on the Entity List.

2. Revisions to the Entity List

This rule implements a modification to eight existing entries for ''Argut OOO,'' ''International Center for Quantum Optics and Quantum

Technologies LLC,'' ''JSC Central Research Institute of Machine Building (JSC TsNIIMash),'' ''Kamensk-Uralsky Metallurgical Works J.S. Co.,'' ''Oboronprom OJSC,'' ''Promtech-Dubna, JSC,'' ''Radiotechnical and Information Systems (RTI) Concern,'' *and* ''SP Kvant'' under Russia that were added to the Entity List in the Russia Sanctions rule. Specifically, this rule modifies the entry for these eight entities to remove the exclusion for ECCN 5A992.c and 5D992.c unless for Russian or Belarusian ''government end users'' and Russian or Belarusian state-owned enterprises (SoEs).

Savings Clause

For the sanctions against Belarus added under § 746.8(a)(2) and (3), shipments of items removed from eligibility for a License Exception or reexport or transfer (in-country) without a license (NLR) as a result of this regulatory action that were en route aboard a carrier to a port of export, reexport, or transfer (in-country), on March 26, 2022, pursuant to actual orders for reexport, or transfer (in-country) to or within a foreign destination, may proceed to that destination under the previous eligibility for a License Exception or reexport or transfer (in-country) without a license (NLR).

For all other changes being made in this final rule, shipments of items removed from eligibility for a License Exception or export, reexport, or transfer (in-country) without a license (NLR) as a result of this regulatory action that were en route aboard a carrier to a port of export, reexport, or transfer (in-country), on March 2, 2022, pursuant to actual orders for export, reexport, or transfer (in-country) to or within a foreign destination, may proceed to that destination under the previous eligibility for a License Exception or export, reexport, or transfer (in-country) without a license (NLR).

Export Control Reform Act of 2018

On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which included the Export Control Reform Act of 2018 (ECRA) (codified, as amended, at 50 U.S.C. Sections 4801–4852). ECRA provides the legal basis for BIS's principal authorities and serves as the authority under which BIS issues this rule. To the extent it applies to certain activities that are the subject of this rule, the Trade Sanctions Reform and Export Enhancement Act of 2000 (TSRA) (codified, as amended, at 22 U.S.C. Sections 7201–7211) also serves as authority for this rule.

Rulemaking Requirements

1. This final rule is not a ''significant regulatory action'' because it ''pertain[s]'' to a ''military or foreign affairs function of the United States'' under sec. 3(d)(2) of Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This rule involves three collections of information. BIS believes there will be minimal burden changes to two of these collections—Five-Year Records Retention Requirement for Export Transactions and Boycott Actions (OMB control number 0694–0096) and Automated Export System (AES) Program (OMB control number 0607–0152).

However, ''Multi-Purpose Application (OMB control number 0694–0088 will exceed existing estimates currently associated with this collection as the respondent burden will increase the estimated number of submissions by 215 for license applications submitted annually to BIS. BIS estimates the burden hours associated with this collection would increase by 110 (*i.e.,* 215 applications × 30.6 minutes per response) for a total estimated cost increase of $3,300 (*i.e.,* 110 hours × $30 per hour). The $30 per hour cost estimate for OMB control number 0694–0088 is consistent with the salary data for export compliance specialists currently available through *glassdoor.com* (*glassdoor.com* estimates that an export compliance specialist makes $55,280 annually, which computes to roughly $26.58 per hour). Consistent with 5 CFR 1320.13, BIS requested, and OMB has approved, emergency clearance for an increase in the burden estimate under due to the additional license requirements imposed by this rule.

3. This rule does not contain policies with federalism implications as that term is defined in Executive Order 13132.

4. Pursuant to section 1762 of the Export Control Reform Act of 2018 (50 U.S.C. 4821) (ECRA), this action is exempt from the Administrative Procedure Act (APA) (5 U.S.C. 553) requirements for notice of proposed rulemaking, opportunity for public participation, and delay in effective date. While section 1762 of ECRA provides sufficient authority for such an exemption, this action is also independently exempt from these APA requirements because it involves a military or foreign affairs function of the United States (5 U.S.C. 553(a)(1)).

5. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* are not applicable. Accordingly, no regulatory flexibility analysis is required and none has been prepared.

List of Subjects

15 CFR Part 734

Administrative practice and procedure, Exports, Inventions and patents, Research, Science and technology.

15 CFR Parts 736 and 738

Exports.

15 CFR Part 740

Administrative practice and procedure, Exports, Reporting and recordkeeping requirements.

15 CFR Part 742

Exports, Terrorism.

15 CFR Part 744

Exports, Reporting and recordkeeping requirements, Terrorism.

15 CFR Part 746

Exports, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, parts 734, 736, 738, 740, 742, 744, and 746 of the Export Administration Regulations (15 CFR parts 730 through 774) are amended as follows:

PART 734—SCOPE OF THE EXPORT ADMINISTRATION REGULATIONS

■ 1. The authority citation for 15 CFR part 734 continues to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13020, 61 FR 54079, 3 CFR, 1996 Comp., p. 219; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13637, 78 FR 16129, 3 CFR, 2014 Comp., p. 223; Notice of November 10, 2021, 86 FR 62891 (November 12, 2021).

■ 2. Section 734.9 is amended by revising paragraphs (f) and (g) to read as follows:

§ 734.9 Foreign-Direct Product (FDP) Rules.

* * * * *

(f) *Russia/Belarus FDP rule.* A foreign-produced item is subject to the EAR if it meets both the product scope in paragraph (f)(1) of this section and the destination scope in paragraph (f)(2) of this section. See § 746.8 of the EAR for license requirements, license review policy, and license exceptions applicable to foreign-produced items that are subject to the EAR pursuant to this paragraph (f).

(1) *Product scope of Russia/Belarus FDP rule.* The product scope applies if a foreign-produced item meets the conditions of either paragraph (f)(1)(i) or (ii) of this section.

(i) ''*Direct product*'' *of* ''*technology*'' *or* ''*software.*'' A foreign-produced item meets the product scope of this paragraph (f)(1)(i) if the foreign-produced item is not designated EAR99 and is a ''direct product'' of U.S.-origin ''technology'' or ''software'' subject to the EAR that is specified in any ECCN in product groups D or E in Categories 3, 4, 5, 6, 7, 8, or 9 of the CCL; or

(ii) ''*Direct product*'' *of a complete plant or 'major component' of a plant.* A foreign-produced item, meets the product scope of this paragraph (f)(1)(ii) if the foreign-produced item is not designated EAR99 and is produced by any plant or 'major component' of a plant that is located outside the United States, when the plant or 'major component' of a plant, whether made in the United States or a foreign country, itself is a ''direct product'' of U.S.-origin ''technology'' or ''software'' subject to the EAR that is specified in any ECCN in product groups D or E in Categories 3, 4, 5, 6, 7, 8, or 9 of the CCL.

(2) *Destination scope of the Russia/Belarus FDP rule.* A foreign-produced item meets the destination scope of this paragraph (f)(2) if there is ''knowledge'' that the foreign-produced item is destined to Russia or Belarus or will be incorporated into or used in the ''production'' or ''development'' of any ''part,'' ''component,'' or ''equipment'' not designated EAR99 and produced in or destined to Russia or Belarus.

(g) *Russia/Belarus-Military End User FDP rule.* A foreign-produced item is subject to the EAR if it meets both the product scope in paragraph (g)(1) of this section and the end-user scope in paragraph (g)(2) of this section. See § 746.8 of the EAR for license requirements, license review policy, and license exceptions applicable to foreign-produced items that are subject to the EAR pursuant to this paragraph (g).

(1) *Product Scope of Russia/Belarus-Military End User FDP rule.* The product scope applies if a foreign-produced item meets the conditions of either paragraph (g)(1)(i) or (ii) of this section.

(i) ''*Direct product*'' *of* ''*technology*'' *or* ''*software.*'' A foreign-produced item meets the product scope of this paragraph (g)(1)(i) if the foreign-produced item is a ''direct product'' of ''technology'' or ''software'' subject to the EAR and specified in any ECCN in product groups D or E in any categories of the CCL; or

(ii) ''*Direct product*'' *of a complete plant or 'major component' of a plant.* A foreign-produced item meets the product scope of this paragraph (g)(1)(ii) if the foreign-produced item is produced by any plant or 'major component' of a plant that is located outside the United States, when the plant or 'major component' of a plant, whether made in the United States or a foreign country, itself is a ''direct product'' of U.S.-origin ''technology'' or ''software'' subject to the EAR that is specified in any ECCN in product groups D or E in any categories of the CCL.

(2) *End-user scope of the Russia/Belarus-'Military End User' FDP rule.* A foreign-produced item meets the end-user scope of this paragraph (g)(2) if there is ''knowledge'' that:

(i) *Activities involving footnote 3 designated entities.* The foreign-produced item will be incorporated into, or used in the ''production'' or ''development'' of any ''part,'' ''component,'' or ''equipment'' produced, purchased, or ordered by any entity with a footnote 3 designation in the license requirement column of the Entity List in Supplement No. 4 to part 744 of the EAR; or

(ii) *Footnote 3 designated entities as transaction parties.* Any entity with a footnote 3 designation in the license requirement column of the Entity List in Supplement No. 4 to part 744 of the EAR is a party to any transaction involving the foreign-produced item, *e.g.,* as a ''purchaser,'' ''intermediate consignee,'' ''ultimate consignee,'' or ''end-user.''

Note 3 to paragraph (g). A 'military end user' for purposes of paragraph (g) is any entity listed on the Entity List in supplement no. 4 to part 744 of the EAR with a footnote 3 designation.

PART 736—GENERAL PROHIBITIONS

■ 3. The authority citation for 15 CFR part 736 continues to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13020, 61 FR 54079, 3 CFR, 1996 Comp., p. 219; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13338, 69 FR 26751, 3 CFR, 2004 Comp., p. 168; Notice of November 10, 2021, 86 FR 62891 (November 12, 2021); Notice of May 6, 2021, 86 FR 26793 (May 10, 2021).

■ 4. Section 736.2 is amended by revising paragraph (b)(7)(i)(A)(*5*) to read as follows:

§ 736.2 General prohibitions and determination of applicability.

* * * * *

(b) * * *

(*7*) * * *

(i) * * *

(A) * * *

(*5*) A 'military-intelligence end use' or a 'military-intelligence end user,' as defined in § 744.22(f) of the EAR, in Belarus, Burma, the People's Republic of China, Russia, or Venezuela; or a country listed in Country Groups E:1 or E:2.

* * * * *

PART 738—COMMERCE CONTROL LIST OVERVIEW AND THE COUNTRY CHART

■ 5. The authority citation for 15 CFR part 738 continues to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* 10 U.S.C. 8720; 10 U.S.C. 8730(e); 22 U.S.C. 287c; 22 U.S.C. 2151 note; 22 U.S.C. 3201 *et seq.;* 22 U.S.C. 6004; 42 U.S.C. 2139a; 15 U.S.C. 1824; 50 U.S.C. 4305; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783.

■ 6. Supplement no. 1 to part 738 is amended by revising the entries for ''Belarus'' and ''Russia'' and footnote 6 to read as follows:

Supplement No. 1 to Part 738—Commerce Country Chart

[REASON FOR CONTROL]

Countries	Chemical and biological weapons			Nuclear nonproliferation		National security		Missile tech	Regional stability		Firearms convention	Crime control			Anti-terrorism	
	CB 1	CB 2	CB 3	NP 1	NP 2	NS 1	NS 2	MT 1	RS 1	RS 2	FC 1	CC 1	CC 2	CC 3	AT 1	AT 2
*			*		*			*		*		*		*		
Belarus[6]	X	X	X	X	X	X	X	X	X	X		X	X			
*			*		*			*		*		*		*		
Russia[6]	X	X	X	X	X	X	X	X	X	X		X	X			
*			*		*			*		*		*		*		
*			*		*			*		*		*		*		

[6] See § 746.5 of the EAR for additional license requirements under the Russian Industry Sector Sanctions for ECCNs 0A998, 1C992, 3A229, 3A231, 3A232, 6A991, 8A992, and 8D999 and items identified in supplement no. 2 to part 746 of the EAR. See § 746.8 of the EAR for Sanctions against Russia and Belarus, including additional license requirements for items listed in any ECCN in Categories 3, 4, 5, 6, 7, 8, or 9 of the CCL.

* * * * *

PART 740—LICENSE EXCEPTIONS

■ 7. The authority citation for 15 CFR part 740 continues to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 7201 *et seq.;* E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783.

■ 8. Section 740.2 is amended by revising paragraph (a)(6) to read as follows:

§ 740.2 Restrictions on all License Exceptions.

(a) * * *

(6) The export or reexport is to a sanctioned destination (Cuba, Iran, North Korea, Syria, Crimea region of Ukraine, and the so-called Donetsk People's Republic (DNR) and Luhansk People's Republic (LNR) regions of Ukraine) or a license is required based on a limited sanction (Russia or Belarus) unless a license exception or portion thereof is specifically listed in the license exceptions paragraph pertaining to a particular sanctioned country in part 746 of the EAR.

* * * * *

■ 9. Section 740.19 is amended by revising paragraphs (a), (b) introductory text, and (c) to read as follows:

§ 740.19 Consumer Communications Devices (CCD).

(a) *Authorizations.* This section authorizes the export, reexport, or transfer (in-country) of commodities and software to Cuba, Russia, and Belarus subject to the requirements stated in this section. This section does not authorize U.S. owned or controlled entities in third countries to engage in reexports of foreign produced commodities to Cuba for which no license would be issued by the Department of the Treasury pursuant to 31 CFR 515.559.

(b) *Eligible commodities and software.* Commodities and software in paragraphs (b)(1) through (17) of this section are eligible for export, reexport, or transfer (in-country) under this section to and within Cuba, Russia, and Belarus.

* * * * *

(c) *Eligible and ineligible end users*—(1) *Organizations.* (i) The license exception in this section may be used to export, reexport, or transfer (in-country) eligible commodities and software to and for the use of independent non-governmental organizations in Cuba, Russia, or Belarus.

(ii) The Cuban Government, the Cuban Communist Party, the Russian Government, the Belarusian Government, and organizations administered or controlled by the Cuban Government, the Cuban Communist Party, the Russian Government, or the Belarusian Government are not eligible end users.

(iii) [Reserved]

(2) *Individuals.* The license exception in this section may be used to export, reexport, or transfer (in-country) eligible commodities and software to and for the use of individuals other than the following:

(i) *Ineligible Cuban Government officials.* Ministers and Vice-Ministers; members of the Council of State; members of the Council of Ministers; members and employees of the National Assembly of People's Power; members of any provincial assembly; local sector chiefs of the Committees for the Defense of the Revolution; Director Generals and sub-Director Generals and higher of all Cuban ministries and state agencies; employees of the Ministry of the Interior (MININT); employees of the Ministry of Defense (MINFAR); secretaries and first secretaries of the Confederation of Labor of Cuba (CTC) and its component unions; chief editors, editors and deputy editors of Cuban state-run media organizations and programs, including newspapers, television, and radio; or members and employees of the Supreme Court (Tribuno Supremo Nacional).

(ii) *Ineligible Cuban Communist Party officials.* Members of the Politburo.

(iii) *Ineligible Russian Government officials.* The President, Prime Minister, and Deputy Prime Ministers; Federal Ministers; Chairman, Deputy Chairman, and Secretary of the Security Council; members and employees of the Federal Assembly (the State Duma and the Federation Council); members and employees of the Supreme Court and the Constitutional Court; Chief and all employees of the General Staff of the armed forces; employees of the Ministry of Defence; Director and employees of the Federal Security Service, Director and employees of the Foreign Intelligence Service; employees of the Ministry of the Interior; employees of state committees, chief editors, editors and deputy editors of Russian state-run media organizations and programs, including newspapers, television, and radio; offices, services, agencies and other entities organized under or reporting to the federal government.

(iv) *Ineligible Belarusian Government officials.* Alyaksandr Lukashenko; Prime Minister and Deputy Prime Ministers; members of the Council of Ministers; members of the Security Council of Belarus; members and employees of the National Assembly of the Republic of Belarus; members and employees of the Supreme Court and the Constitutional Court; Chief and all employees of the General Staff of the armed forces; employees of the Ministry of Defense, including the National Armed Services (Army and Air Force), the National

Guard and National Police; and employees of Government Intelligence or Reconnaissance Organizations of the Republic of Belarus, including the Director and employees of the State Security Committee (BKGB); employees of the Ministry of Internal Affairs; employees of state committees; employees of the State Authority for the Military Industry; employees of the Border Control Committee of the Republic of Belarus; chief editors, editors and deputy editors of Belarusian state-run media organizations and programs, including newspapers, television, and radio; offices, services, agencies and other entities organized under or reporting to the federal government.

■ 10. Supplement no. 1 to part 740 is amended by revising the entry for ''Belarus'' and footnote 3 in the Country Group A table and the entry for ''Belarus'' in the Country Group D table to read as follows:

Supplement No. 1 to Part 740—Country Groups

COUNTRY GROUP A

Country	[A:1] Wassenaar participating states [1]	[A:2] Missile technology control regime [2]	[A:3] Australia group	[A:4] Nuclear suppliers group [3]	[A:5]	[A:6]
* *	*	*	*	*	*	*
Belarus						
* *	*	*	*	*	*	*

[1] Country Group A:1 is a list of the Wassenaar Arrangement Participating States, except for Malta, Russia and Ukraine.
[2] Country Group A:2 is a list of the Missile Technology Control Regime countries, except for Russia.
[3] Country Group A:4 is a list of the Nuclear Suppliers Group countries, except for the People's Republic of China (PRC), Russia, and Belarus.

* * * * *

COUNTRY GROUP D

Country	[D:1] National security	[D:2] Nuclear	[D:3] Chemical & biological	[D:4] Missile technology	[D:5] U.S. arms embargoed countries [1]
* * *	*	*	*	*	*
Belarus	X	X	X	X	X
* * *	*	*	*	*	*

[1] *Note to Country Group D:5:* Countries subject to U.S. arms embargoes are identified by the State Department through notices published in the **Federal Register**. The list of arms embargoed destinations in this table is drawn from 22 CFR 126.1 and State Department **Federal Register** notices related to arms embargoes (compiled at *www.pmddtc.state.gov/embargoed_countries/index.html*) and will be amended when the State Department publishes subsequent notices. If there are any discrepancies between the list of countries in this table and the countries identified by the State Department as subject to a U.S. arms embargo (in the **Federal Register**), the State Department's list of countries subject to U.S. arms embargoes shall be controlling.

* * * * *

PART 742—CONTROL POLICY—CCL BASED CONTROLS

■ 11. The authority citation for 15 CFR part 742 continues to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 3201 *et seq.;* 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; Sec. 1503, Pub. L. 108–11, 117 Stat. 559; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Presidential Determination 2003–23, 68 FR 26459, 3 CFR, 2004 Comp., p. 320; Notice of November 10, 2021, 86 FR 62891 (November 12, 2021).

■ 12. Section 742.2 is amended by revising paragraph (b)(4) to read as follows:

§ 742.2 Proliferation of chemical and biological weapons.

* * * * *

(b) * * *

(4) License applications for items described in paragraph (a) of this section, when destined for the People's Republic of China will be reviewed in accordance with the licensing policies in both paragraph (b) of this section and § 742.4(b)(7). When such items are destined to Russia or Belarus, license applications will be reviewed under a policy of denial. However, exports and reexports of items to Russia or Belarus in support of U.S.-Russia or U.S.-Belarus civil space cooperation activities-will be reviewed on a case-by-case basis, as well as certain other certain specified activities specified in § 746.8 of the EAR. See § 746.8(b).

* * * * *

■ 13. Section 742.3 is amended by revising the second and third sentences of paragraph (b)(4) to read as follows:

§ 742.3 Nuclear nonproliferation.

* * * * *

(b) * * *

(4) * * * When such items are destined to Russia or Belarus, license applications will be reviewed under a policy of denial. However, exports and reexports of items to Russia or Belarus in support of U.S.-Russia or U.S.-Belarus civil space cooperation activities or in support of Russian manufactured nuclear power plants in

Russia or other destinations will be reviewed on a case-by-case basis. * * *

* * * * *

■ 14. Section 742.4 is amended by revising paragraph (b)(9) to read as follows:

§ 742.4 National security.

* * * * *

(b) * * *

(9) For the Russian Federation and Belarus, all applications will be reviewed in accordance with the licensing policy set forth in § 746.8(b) of the EAR.

* * * * *

■ 15. Section 742.5 is amended by revising the second, third, and fourth sentences of paragraph (b)(5) to read as follows:

§ 742.5 Missile technology.

* * * * *

(b) * * *

(5) * * * When such items are destined to Russia or Belarus, license applications will be reviewed under a policy of denial. However, exports and reexports of items to Russia or Belarus in support of U.S.-Russia or U.S.-Belarus civil space cooperation activities-will be reviewed on a case-by-case basis. See § 746.8(b) of the EAR.

* * * * *

■ 16. Section 742.6 is amended by revising paragraph (b)(9) to read as follows:

§ 742.6 Regional stability.

* * * * *

(b) * * *

(9) *Russia or Belarus.* Applications to export or reexport items described in paragraph (a)(7) of this section will be reviewed pursuant to the licensing policy set forth in § 746.8(b) of the EAR, as well as the foreign policy interest of promoting the observance of human rights throughout the world and consistent with United States arms embargo policies in § 126.1 of the ITAR (22 CFR 126.1).

* * * * *

PART 744—END-USE AND END-USER CONTROLS

■ 17. The authority citation for 15 CFR part 744 continues to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 3201 *et seq.;* 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; Notice of September 15, 2021, 86 FR 52069 (September 17, 2021); Notice of November 10, 2021, 86 FR 62891 (November 12, 2021).

■ 18. Section 744.6 is amended by revising paragraphs (b)(5) to read as follows:

§ 744.6 Restrictions on specific activities of "U.S. persons."

* * * * *

(b) * * *

(5) A 'military-intelligence end use' or a 'military-intelligence end user,' as defined in § 744.22(f), in Belarus, Burma, Cambodia, the People's Republic of China, Russia, or Venezuela; or a country listed in Country Groups E:1 or E:2 (see supplement no. 1 to part 740 of the EAR).

* * * * *

■ 19. Section 744.21 is revised to read as follows:

§ 744.21 Restrictions on certain 'military end use' or 'military end user' in Belarus, Burma, Cambodia, the People's Republic of China, the Russian Federation, or Venezuela.

(a) *General prohibition.* In addition to the license requirements for items specified on the Commerce Control List (CCL) (supplement no. 1 to this part), you may not export, reexport, or transfer (in-country) any item subject to the EAR listed in supplement no. 2 to this part to Burma, Cambodia, the People's Republic of China (China), or Venezuela, or any item ''subject to the EAR,'' without a license if, at the time of the export, reexport, or transfer (in-country), you have ''knowledge,'' as defined in § 772.1 of the EAR, that the item is intended, entirely or in part, for a 'military end use,' as defined in paragraph (f) of this section, or a 'military end user,' as defined in paragraph (g) of this section, in Belarus, Burma, Cambodia, China, the Russian Federation, or Venezuela.

(b) *Additional prohibition on those informed by BIS.* BIS may inform you either individually by specific notice, through amendment to the EAR published in the **Federal Register**, or through a separate notification published in the **Federal Register**, that a license is required for specific exports, reexports, or transfers (in-country) of any item because there is an unacceptable risk of use in or diversion to a 'military end use' or 'military end user' in Belarus, Burma, Cambodia, China, the Russian Federation, or Venezuela. Specific notice will be given only by, or at the direction of, the Deputy Assistant Secretary for Export Administration. When such notice is provided orally, it will be followed by written notice within two working days signed by the Deputy Assistant Secretary for Export Administration or the Deputy Assistant Secretary's designee. The absence of BIS notification does not excuse the exporter from compliance with the license requirements of paragraph (a) of this section.

(1) *'Military End-User' (MEU) List and Entity List.* BIS may inform and provide notice to the public that certain entities are subject to the additional prohibition described under this paragraph (b) following a determination by the End-User Review Committee (ERC) that a specific entity is a 'military end user' pursuant to this section and therefore any exports, reexports, or transfers (in-country) to that entity represent an unacceptable risk of use in or diversion to a 'military end use' or 'military end user' in Belarus, Burma, Cambodia, China, the Russian Federation or Venezuela. Such entities in Burma, Cambodia, China, or Venezuela may be added to supplement no. 7 to this part—'Military End-User' (MEU) List. Such entities in the Russian Federation or Belarus may also be added to supplement No. 4 to this part—Entity List. License requirements for listed MEU are described in paragraph (b)(1)(ii) of this section. The listing of entities under supplement no. 7 or 4 to this part is not an exhaustive listing of 'military end users' for purposes of this section. Exporters, reexporters, and transferors are responsible for determining whether transactions with entities not listed on supplement no. 7 or 4 to this part are subject to a license requirement under paragraph (a) of this section. The process in this paragraph (b)(1) for placing entities on the MEU List and Entity List is only one method BIS may use to inform exporters, reexporters, and transferors of license requirements under this section.

(i) *End-User Review Committee (ERC).* The End-User Review Committee (ERC), composed of representatives of the Departments of Commerce (Chair), State, Defense, Energy and, where appropriate, the Treasury, makes all decisions regarding additions to, removals from, or other modifications to the MEU List and Entity List. Decisions by the ERC for purposes of the MEU List and Entity List will be made following the procedures identified in this section and in supplement no. 5 to this part—Procedures for End-User Review Committee Entity List and 'Military End User' (MEU) List Decisions.

(ii) *License requirement for parties to the transaction.* Consistent with paragraph (a) of this section, a license is

required for the export, reexport, or transfer (in-country) of any item subject to the EAR listed in supplement no. 2 to this part when an entity that is listed on the MEU List under Burma, Cambodia, the People's Republic of China (China), or Venezuela is a party to the transaction as described in § 748.5(c) through (f) of the EAR. Consistent with paragraph (a) of this section, a license is required for the export, reexport, or transfer (in-country) of any item subject to the EAR except for food or medicine designated as EAR99 to Russia or to Belarus when an entity that is listed on the Entity List under Russia or Belarus pursuant to this section is a party to the transaction as described in § 748.5(c) through (f) of the EAR.

(2) *Requests for removal from or modification of 'Military End User' (MEU) List and Entity List.* Any entity listed on the MEU List or Entity List pursuant to this section may request that its listing be removed or modified. All such requests, including reasons therefor, must be in writing and sent to: Chair, End-User Review Committee, Bureau of Industry and Security, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue NW, Room 3886, Washington, DC 20230; or by email at *ERC@bis.doc.gov.* In order for an entity listed on the MEU List or the Entity List pursuant to this section to petition BIS for their removal or modification, as applicable, the entity must address why the entity is not a 'military end user' for purposes of this section.

(i) *Review.* The ERC will review such requests for removal or modification in accordance with the procedures set forth in supplement no. 5 to this part.

(ii) *BIS action.* The Deputy Assistant Secretary for Export Administration will convey the decision on the request to the requester in writing. That decision will be the final agency action on the request.

(c) *License exception.* Despite the prohibitions described in paragraphs (a) and (b) of this section, you may export, reexport, or transfer (in-country) items subject to the EAR under the provisions of License Exception GOV set forth in § 740.11(b)(2)(i) and (ii) of the EAR.

(d) *License application procedure.* When submitting a license application pursuant to this section, you must state in the ''additional information'' block of the application that ''this application is submitted because of the license requirement in this section (Restrictions on a 'Military End Use' or 'Military End User' in Belarus, Burma, Cambodia, the People's Republic of China, the Russian Federation, or Venezuela).'' In addition, either in the additional information block of the application or in an attachment to the application, you must include all known information concerning the 'military end use' and 'military end user(s)' of the item(s). If you submit an attachment with your license application, you must reference the attachment in the ''additional information'' block of the application.

(e) *License review standards.* (1) Applications to export, reexport, or transfer (in-country) items to or within Burma, Cambodia, the People's Republic of China (China), or Venezuela described in paragraph (a) of this section will be reviewed with a presumption of denial. Applications to export, reexport, or transfer (in-country) items to or within Russia or Belarus described in paragraph (a) of this section will be reviewed with a policy of denial.

(2) Applications may be reviewed under chemical and biological weapons, nuclear nonproliferation, or missile technology review policies, as set forth in §§ 742.2(b)(4), 742.3(b)(4), and 742.5(b)(4) of the EAR, if the end use may involve certain proliferation activities.

(3) Applications for items requiring a license for any reason that are destined to Belarus, Burma, Cambodia, China, the Russian Federation, or Venezuela for a 'military end use' or 'military end user' also will be subject to the review policy stated in paragraph (e)(1) of this section.

(f) *Military end use.* In this section, 'military end use' means: Incorporation into a military item described on the U.S. Munitions List (USML) (22 CFR part 121, International Traffic in Arms Regulations); incorporation into items classified under Export Control Classification Numbers (ECCNs) ending in ''A018'' or under ''600 series'' ECCNs; or any item that supports or contributes to the operation, installation, maintenance, repair, overhaul, refurbishing, ''development,'' or ''production,'' of military items described on the USML, or items classified under ECCNs ending in ''A018'' or under ''600 series'' ECCNs.

(g) *Military end user.* In this section, the term 'military end user' means the national armed services (army, navy, marine, air force, or coast guard), as well as the national guard and national police, government intelligence or reconnaissance organizations (excluding those described in § 744.22(f)(2)), or any person or entity whose actions or functions are intended to support 'military end uses' as defined in paragraph (f) of this section.

(h) *Effects on contracts.* Transactions involving the export, reexport, or transfer (in country) of items to or within Venezuela are not subject to the provisions of this section if the contracts for such transactions were signed prior to November 7, 2014.

■ 20. Section 744.22 is amended by revising paragraphs (a), (b), and (f)(2) introductory text and adding paragraph (f)(2)(x) to read as follows:

§ 744.22 Restrictions on exports, reexports, and transfers (in-country) to certain military-intelligence end uses or end users.

(a) *General prohibition.* In addition to the license requirements for items specified on the Commerce Control List (CCL) (supplement no. 1 to part 774 of the EAR), you may not export, reexport, or transfer (in-country) any item subject to the EAR without a license from BIS if, at the time of the export, reexport, or transfer (in-country), you have ''knowledge'' that the item is intended, entirely or in part, for a 'military-intelligence end use' or a 'military-intelligence end user' in Belarus, Burma, Cambodia, the People's Republic of China (China), Russia, or Venezuela; or a country listed in Country Groups E:1 or E:2 (see supplement no. 1 to part 740 of the EAR).

(b) *Additional prohibition on those informed by BIS.* BIS may inform you either individually by specific notice, through amendment to the EAR published in the **Federal Register**, or through a separate notification published in the **Federal Register**, that a license is required for specific exports, reexports, or transfers (in-country) of any item subject to the EAR because there is an unacceptable risk of use in, or diversion to, a 'military-intelligence end use' or a 'military-intelligence end user' in Belarus, Burma, Cambodia, China, Russia, or Venezuela; or a country listed in Country Group E:1 or E:2 (see supplement no. 1 to part 740 of the EAR).

* * * * *

(f) * * *

(2) 'Military-intelligence end user' means any intelligence or reconnaissance organization of the armed services (army, navy, marine, air force, or coast guard); or national guard. For license requirements applicable to other government intelligence or reconnaissance organizations in Belarus, Burma, Cambodia, China, Russia, or Venezuela, see § 744.21. Military-intelligence end users subject to the license requirements set forth in this section include, but are not limited to, the following:

* * * * *

(x) *Belarus.* The Main Intelligence Directorate of the General Staff of the Armed Forces of Belarus.

■ 21. Supplement No. 4 to part 744 is amended as follows:

■ a. Under Belarus by adding in alphabetical order entries for ''JSC Integral'' and ''The Ministry of Defence of the Republic of Belarus, including the Armed Forces of Belarus''; and

■ b. Under RUSSIA by revising the entries for ''Argut OOO,'' ''International Center for Quantum Optics and Quantum Technologies LLC,'' ''JSC Central Research Institute of Machine Building (JSC TsNIIMash),'' ''Kamensk-Uralsky Metallurgical Works J.S. Co.,'' ''Oboronprom OJSC,'' ''Promtech-Dubna, JSC,'' ''Radiotechnical and Information Systems (RTI) Concern,'' and ''SP Kvant''.

The additions and revisions read as follows:

Supplement No. 4 to Part 744—Entity List

* * * * *

Country	Entity	License requirement	License review policy	Federal Register citation
*	*	*	*	*
BELARUS	*	*	*	*
	JSC Integral, a.k.a., the following two aliases: —OAO Integral; *and* —Joint-Stock Company Integral —Holding Managing Company. 121A, Kazintsa I.P. Str., Minsk, 220108, Belarus; *and* 12 Korzhenevskogo Str., Minsk, 220108, Belarus; *and* 137 Brestskaya Str., Pinsk, Brest region, 225710, Belarus.	All items subject to the EAR except for food or medicine designated as EAR99, or ECCN 5A992.c and 5D992.c unless for Belarusian ''government end users'' and Belarusian state-owned enterprises (SoEs) to Belarus. (See §§ 734.9(g),[3] 746.8(a)(3), and 744.21(b) of the EAR) This license requirement may be overcome by License Exception GOV under § 740.11(b)(2) and (e).	Policy of denial. See §§ 746.8(b) and 744.21(e).	87 FR [INSERT FR PAGE NUMBER] 3/8/2022.
	*	*	*	*
	The Ministry of Defence of the Republic of Belarus, including the Armed Forces of Belarus and all operating units wherever located. This includes the national armed services (army and air force), as well as the national guard and national police, government intelligence or reconnaissance organizations of the Republic of Belarus. All addresses located in Belarus.	All items subject to the EAR except for food or medicine designated as EAR99. (See §§ 734.9(g),[3] 746.8(a)(3), and 744.21(b) of the EAR).	Policy of denial. See §§ 746.8(b) and 744.21(e).	87 FR [INSERT FR PAGE NUMBER] 3/8/2022.
	*	*	*	*
*	*	*	*	*
RUSSIA	*	*	*	*
	Argut OOO, 6 Mnevniki str end 6 fl, Moscow 123308, Russia.	All items subject to the EAR except for food or medicine designated as EAR99. (See §§ 734.9(g),[3] 746.8(a)(3), and 744.21(b) of the EAR).	Policy of denial. See §§ 746.8(b) and 744.21(e).	87 FR [INSERT FR PAGE NUMBER FROM FR 2022–04300, SCHEDULED TO PUBLISH 3/3/2022], 3/3/22. 87 FR [INSERT FR PAGE NUMBER] 3/8/2022.
	*	*	*	*
	International Center for Quantum Optics and Quantum Technologies LLC, a.k.a. the following two aliases: —Russian Quantum Center *and* —RQC. Business-center ''Ural,'' 100 Novaya Street, Skolkovo, Moscow, 143025, Russia; *and* 30 Bolshoy Blvd, Bldg 1, Moscow, 121205, Russia; *and* 100A Novaya Street, Skolkovo, Odintsovsky District, Moscow, 143025, Russia.	All items subject to the EAR except for food or medicine designated as EAR99. (See §§ 734.9(g),[3] 746.8(a)(3), and 744.21(b) of the EAR).	Policy of denial. See §§ 746.8(b) and 744.21(e).	87 FR [INSERT FR PAGE NUMBER FROM FR 2022–04300, SCHEDULED TO PUBLISH 3/3/2022], 3/3/22. 87 FR [INSERT FR PAGE NUMBER] 3/8/2022.
	*	*	*	*
	JSC Central Research Institute of Machine Building (JSC TsNIIMash), Pionerskaya Street, 4, korpus 22, Moskovskaya obl., Korolov 141070, Russia.	All items subject to the EAR except for food or medicine designated as EAR99. (See §§ 734.9(g),[3] 746.8(a)(3), and 744.21(b) of the EAR).	Policy of denial. See §§ 746.8(b) and 744.21(e).	87 FR [INSERT FR PAGE NUMBER FROM FR 2022–04300, SCHEDULED TO PUBLISH 3/3/2022], 3/3/22. 87 FR [INSERT FR PAGE NUMBER] 3/8/2022.
	*	*	*	*
	Kamensk-Uralsky Metallurgical Works J.S. Co., 5 Zavodskaya St., Kamensk Uralsky, 623405 Sverdlovsk region, Russia.	All items subject to the EAR except for food or medicine designated as EAR99. (See §§ 734.9(g),[3] 746.8(a)(3), and 744.21(b) of the EAR).	Policy of denial. See §§ 746.8(b) and 744.21(e).	87 FR [INSERT FR PAGE NUMBER FROM FR 2022–04300, SCHEDULED TO PUBLISH 3/3/2022], 3/3/22. 87 FR [INSERT FR PAGE NUMBER] 3/8/2022.
	*	*	*	*

Country	Entity	License requirement	License review policy	**Federal Register** citation
	Oboronprom OJSC, 29/141 Vereiskaya Street, Moscow, 121357 Russia.	All items subject to the EAR except for food or medicine designated as EAR99. (See §§ 734.9(g),[3] 746.8(a)(3), and 744.21(b) of the EAR).	Policy of denial. See §§ 746.8(b) and 744.21(e).	87 FR [INSERT FR PAGE NUMBER FROM FR 2022–04300, SCHEDULED TO PUBLISH 3/3/2022], 3/3/22. 87 FR [INSERT FR PAGE NUMBER] 3/8/2022.
	* *	* *	*	*
	Promtech-Dubna, JSC, Programmistov st., 4, room 364, Dubna, Moscow 141983, Russia.	All items subject to the EAR except for food or medicine designated as EAR99. (See §§ 734.9(g),[3] 746.8(a)(3), and 744.21(b) of the EAR).	Policy of denial. See §§ 746.8(b) and 744.21(e).	87 FR [INSERT FR PAGE NUMBER FROM FR 2022–04300, SCHEDULED TO PUBLISH 3/3/2022], 3/3/22. 87 FR [INSERT FR PAGE NUMBER] 3/8/2022.
	* *	* *	*	*
	Radiotechnical and Information Systems (RTI) Concern, 127083, Moscow, 8 marta, 10/1 Russia.	All items subject to the EAR except for food or medicine designated as EAR99. (See §§ 734.9(g),[3] 746.8(a)(3), and 744.21(b) of the EAR).	Policy of denial. See §§ 746.8(b) and 744.21(e).	87 FR [INSERT FR PAGE NUMBER FROM FR 2022–04300, SCHEDULED TO PUBLISH 3/3/2022], 3/3/22. 87 FR [INSERT FR PAGE NUMBER] 3/8/2022.
	* *	* *	*	*
	SP Kvant, a.k.a., the follow three aliases: —Kvant LLC; —Limited Liability Company Joint Venture Quantum Technologies; *and* —Joint Venture Quantum. D. 46, Etazh 6, pom. 600K, Shosse Varshavskoe, Moscow, 115230, Russia.	All items subject to the EAR except for food or medicine designated as EAR99. (See §§ 734.9(g),[3] 746.8(a)(3), and 744.21(b) of the EAR).	Policy of denial. See §§ 746.8(b) and 744.21(e).	87 FR [INSERT FR PAGE NUMBER FROM FR 2022–04300, SCHEDULED TO PUBLISH 3/3/2022], 3/3/22. 87 FR [INSERT FR PAGE NUMBER] 3/8/2022.
	* *	* *	*	*
*	* * *	* *	* *	*

[3] For this entity, ''items subject to the EAR'' includes foreign-produced items that are subject to the EAR under § 734.9(g) of the EAR. See §§ 746.8 and 744.21 of the EAR for related license requirements, license review policy, and restrictions on license exceptions.

PART 746—EMBARGOES AND OTHER SPECIAL CONTROLS

■ 22. The authority citation for 15 CFR part 746 is continues to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 287c; Sec 1503, Pub. L. 108–11, 117 Stat. 559; 22 U.S.C. 2151 note; 22 U.S.C. 6004; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 12854, 58 FR 36587, 3 CFR, 1993 Comp., p. 614; E.O. 12918, 59 FR 28205, 3 CFR, 1994 Comp., p. 899; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13338, 69 FR 26751, 3 CFR, 2004 Comp., p 168; Presidential Determination 2003–23, 68 FR 26459, 3 CFR, 2004 Comp., p. 320; Presidential Determination 2007–7, 72 FR 1899, 3 CFR, 2006 Comp., p. 325; Notice of May 6, 2021, 86 FR 26793 (May 10, 2021).

■ 23. Section 746.8 is revised to read as follows:

§ 746.8 Sanctions against Russia and Belarus.

(a) *License requirements.* For purposes of paragraphs (a)(1) and (2) of this section, commodities and software classified under ECCNs 5A992 or 5D992 that have been 'classified in accordance with § 740.17' do not require a license to or within Russia or Belarus for civil end-users that are wholly-owned U.S. subsidiaries, foreign subsidiaries of U.S. companies that are joint ventures with other U.S. companies, joint ventures of U.S. companies with companies headquartered in countries from Country Group A:5 and A:6 in supplement no. 1 to part 740 of the EAR countries, the wholly-owned subsidiaries of companies headquartered in countries from Country Group A:5 and A:6 in supplement no. 1 to part 740, or joint ventures of companies headquartered in Country Group A:5 and A:6 with other companies headquartered in Country Groups A:5 and A:6.

(1) *Items classified in any ECCN in CCL Categories 3 to 9.* In addition to license requirements specified on the Commerce Control List (CCL) in Supplement No. 1 to part 774 of the EAR and in other provisions of the EAR, including part 744 and § 746.5, a license is required, excluding deemed exports and deemed reexports, to export, reexport, or transfer (in-country) to or within Russia or Belarus any item subject to the EAR and specified in any Export Control Classification Number (ECCN) in Categories 3, 4, 5, 6, 7, 8, or 9 of the CCL.

(2) *Foreign-produced ''direct product'' items subject to the EAR under Russia/Belarus foreign ''direct product'' (FDP) rule.* Except as described in paragraph (a)(4) of this section, a license is required to reexport, export from abroad, or transfer (in-country) to any destination any foreign-produced item subject to the EAR under the Russia/Belarus FDP rule described in § 734.9(f) of the EAR.

(3) *Foreign-produced ''direct product'' items subject to the EAR under Russia/Belarus-Military End User FDP rule.* Except as described in paragraph (a)(4) of this section, a license is required to reexport, export from abroad, or transfer (in-country) to or within any destination any foreign-produced item subject to the EAR under § 734.9(g) of the EAR other than food or medicine designated as EAR99.

(4) *Exclusion from license requirements under paragraphs (a)(2) and (3) of this section.* The countries listed in supplement No. 3 to this part have committed to implementing substantially similar export controls on Russia and Belarus under their domestic laws. Therefore, exports or reexports from the countries described in this supplement No. 3 to this part or transfers (in-country) within the countries described in this supplement are not subject to the license requirements described in paragraphs (a)(2) and (3) of this section, unless a limit to the exclusion is described in the Scope column in supplement no. 3 to this part.

(5) *Exclusion from scope of U.S.-origin controlled content under paragraph (a)(1) of this section.* For purposes of determining U.S.-origin controlled content under supplement

No. 2 to part 734 of the EAR, paragraph (a)(1) of this section when making a *de minimis* calculation for reexports and exports from abroad to Russia or Belarus, the license requirements in paragraph (a)(1) of this section are not used to determine controlled U.S.-origin content in a foreign-made item, provided the criteria in paragraphs (a)(5)(i) and (ii) of this section are met:

(i) The U.S.-origin content is described in an Anti-Terrorism (AT)-only ECCN and is not otherwise excluded from the applicable Scope column in supplement No. 3 to this part. For purposes of this paragraph (a)(5), AT-only items mean any ECCN that only specifies either only AT in the reason for control paragraph of the ECCN or is classified under ECCN 9A991; and

(ii) The foreign made item will be reexported or exported from abroad from a country described in supplement no. 3 to this part.

Note 1 to paragraph (a). A 'military end user' for purposes of paragraphs (a)(3) and (4) of this section is any entity listed on the Entity List in supplement no. 4 to part 744 of the EAR with a footnote 3 designation.

(b) *Licensing policy.* With limited exceptions, applications for the export, reexport, or transfer (in-country) of any item that requires a license for export or reexport to or transfer pursuant to the requirements of this section will be reviewed with a policy of denial. The following types of license applications for licenses required under paragraphs (a)(1) and (2) of this section will be reviewed on a case-by-case basis to determine whether the transaction in question would benefit the Russian or Belarusian government or defense sector: applications related to safety of flight; applications related to maritime safety; applications for civil nuclear safety; applications to meet humanitarian needs; applications that support government space cooperation; applications for items destined to wholly-owned U.S. subsidiaries, foreign subsidiaries of U.S. companies that are joint ventures with other U.S. companies, joint ventures of U.S. companies with companies headquartered in countries from Country Group A:5 and A:6 in supplement no. 1 to part 740 of the EAR, the wholly-owned subsidiaries of companies headquartered in countries from Country Group A:5 and A:6 in supplement no. 1 to part 740, joint ventures of companies headquartered in Country Groups A:5 and A:6 with other companies headquartered in Country Groups A:5 and A:6; applications for companies headquartered in Country Groups A:5 and A:6 to support civil telecommunications infrastructure; and government-to-government activities. License applications required under paragraph (a)(3) of this section will be reviewed under a policy of denial in all cases.

(c) *License exceptions.* No license exceptions may overcome the license requirements in paragraph (a)(3) of this section, except as specified in the Entity List entry for a Footnote 3 entity on the Entity List in supplement no. 4 to part 744 of the EAR. No license exceptions may overcome the license requirements in paragraphs (a)(1) and (2) of this section except the following license exceptions identified in paragraphs (c)(1) through (7) of this section.

(1) License Exception TMP for items for use by the news media as set forth in § 740.9(a)(9) of the EAR.

(2) License Exception GOV (§ 740.11(b) of the EAR).

(3) License Exception TSU for software updates for civil end-users that are wholly-owned U.S. subsidiaries, foreign subsidiaries of U.S. companies that are joint ventures with other U.S. companies, joint ventures of U.S. companies with companies headquartered in countries from Country Group A:5 and A:6 in supplement no. 1 to part 740 of the EAR countries, the wholly-owned subsidiaries of companies headquartered in countries from Country Group A:5 and A:6 in supplement no. 1 to part 740, or joint ventures of companies headquartered in Country Group A:5 and A:6 with other companies headquartered in Country Groups A:5 and A:6 (§ 740.13(c) of the EAR).

(4) License Exception BAG, excluding firearms and ammunition (§ 740.14, excluding paragraph (e), of the EAR).

(5) License Exception AVS, excluding any aircraft registered in, owned, or controlled by, or under charter or lease by Russia or a national of Russia (§ 740.15(a) and (b) of the EAR).

(6) License Exception ENC for civil end-users that are wholly-owned U.S. subsidiaries, foreign subsidiaries of U.S. companies that are joint ventures with other U.S. companies, joint ventures of U.S. companies with companies headquartered in countries from Country Group A:5 and A:6 in supplement no. 1 to part 740 of the EAR countries, the wholly-owned subsidiaries of companies headquartered in countries from Country Group A:5 and A:6 in supplement no. 1 to part 740, or joint ventures of companies headquartered in Country Group A:5 and A:6 with other companies headquartered in Country Groups A:5 and A:6 (§ 740.13(c) of the EAR) (§ 740.17 of the EAR).

(7) License Exception CCD (§ 740.19 of the EAR).

■ 24. Supplement No. 3 to part 746 is amended by revising the first sentence of the introductory text to read as follows:

Supplement No. 3 to Part 746—Countries Excluded from Certain License Requirements of § 746.8

Countries listed in this supplement have committed to implementing substantially similar export controls on Russia and Belarus under their domestic laws and are consequently excluded from certain requirements in § 746.8 of the EAR, as described in § 746.8(a)(4) and (5). * * *

* * * * *

Thea D. Rozman Kendler,

Assistant Secretary for Export Administration.

[FR Doc. 2022–04819 Filed 3–2–22; 5:05 pm]

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Part III

Department of Homeland Security

8 CFR Parts 204, 205 and 245
Special Immigrant Juvenile Petitions; Final Rule

DEPARTMENT OF HOMELAND SECURITY

8 CFR Parts 204, 205, and 245

[CIS No. 2474–09; DHS Docket No. USCIS–2009–0004]

RIN 1615–AB81

Special Immigrant Juvenile Petitions

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: Final rule.

SUMMARY: The Department of Homeland Security (DHS) is amending its regulations governing the requirements and procedures for juveniles seeking classification as a Special Immigrant Juvenile (SIJ) and related adjustment of status to lawful permanent resident (LPR). This rule codifies statutorily mandated changes and clarifies the following: the definitions of key terms, such as ''juvenile court'' and ''judicial determination''; what constitutes a qualifying juvenile court order for SIJ purposes; what constitutes a qualifying parental reunification determination; DHS's consent function; and applicable bars to adjustment, inadmissibility grounds, and waivers for SIJ-based adjustment to LPR status. This rule also removes bases for automatic revocation that are inconsistent with the statutory requirements of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA 2008) and makes other technical and procedural changes. DHS is issuing this rule to update the regulations as required by law, further align SIJ classification with the statutory purpose of providing humanitarian protection to eligible child survivors of parental abuse, abandonment, or neglect, and clarify the SIJ regulations.

DATES: This final rule is effective April 7, 2022.

FOR FURTHER INFORMATION CONTACT: Rená Cutlip-Mason, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security, by mail at 5900 Capital Gateway Dr., Camp Springs, MD 20529–2140; or by phone at 240–721–3000. (This is not a toll-free number).

Individuals with hearing or speech impairments may access the telephone numbers above via TTY by calling the toll-free Federal Information Relay Service at 1–877–889–5627 (TTY/TDD).

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Executive Summary

A. Purpose of the Regulatory Action

DHS is amending its regulations governing the SIJ classification and related applications for adjustment of status to LPR (submitted on U.S. Citizenship and Immigration Services (USCIS) Form I–485, Application to Register Permanent Residence or Adjust Status), hereafter ''adjustment of status.'' Specifically, this rule revises DHS regulations at 8 CFR 204.11, 205.1, and 245.1 to reflect statutory changes, modify certain provisions, codify existing policies, and clarify eligibility requirements.

B. Legal Authority

The Immigration and Nationality Act (INA), as amended, permits the Secretary of Homeland Security (Secretary) to classify as an SIJ [1] a noncitizen whom a juvenile court located in the United States has declared to be dependent on the juvenile court, or whom the juvenile court has legally committed to or placed under the custody of an agency or department of a State, or an individual or entity appointed by a State or juvenile court. *See* INA section 101(a)(27)(J)(i), 8 U.S.C. 1101(a)(27)(J)(i). The juvenile court must determine that reunification with one or both parents is not viable due to abuse, neglect, abandonment, or a similar basis found under State law. *Id.* In addition, it must be determined in administrative or judicial proceedings that it would not be in the petitioner's best interest to be returned to the country of nationality or last habitual residence of the petitioner or of their parent(s). *See* INA section 101(a)(27)(J)(ii), 8 U.S.C. 1101(a)(27)(J)(ii). Finally, the Secretary, through USCIS, must consent to SIJ classification. *See* INA section 101(a)(27)(J)(iii), 8 U.S.C. 1101(a)(27)(J)(iii). The timeframe for adjudicating SIJ petitions is 180 days. *See* TVPRA 2008 section 235(d)(2), 8 U.S.C. 1232(d)(2).

Upon classification as an SIJ, a noncitizen may be immediately eligible to apply for adjustment of status to LPR, if a visa number is available.[2] *See* INA section 245(h), 8 U.S.C. 1255(h). Certain grounds of inadmissibility that would ordinarily prevent adjustment of status do not apply to those with SIJ classification. *See* INA section 245(h), 8 U.S.C. 1255(h). The Secretary also may waive certain grounds of inadmissibility for those with SIJ classification. *Id.*

DHS is prohibited from compelling SIJ petitioners or applicants for related adjustment of status to contact an alleged abuser, or family member of the alleged abuser, during the petition or application process. *See* INA section 287(h), 8 U.S.C. 1357(h).[3]

The following table summarizes the statutory amendments implemented in this final rule:

TABLE 1—SUMMARY OF STATUTORY AMENDMENTS TO SIJ CLASSIFICATION

Legislation	Amendment
The Immigration and Nationality Technical Corrections Act of 1994, Public Law 103–416, 108 Stat. 4319 (Jan. 25, 1994).	• Expanded the group of people eligible for SIJ classification to include those a juvenile court has legally committed to, or placed under the custody of, an agency or department of a State.
The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998 (CJS 1998 Appropriations Act), Public Law 105–119, 111 Stat. 2440 (Nov. 26, 1997).	• Required that dependency, commitment, or placement be due to abuse, neglect, or abandonment. • Added consent functions of the Attorney General (later changed to the Secretary) of ''express consent'' to the dependency order as a precondition to the grant of SIJ and ''specific consent'' to juvenile court jurisdiction to determine custody or placement of a person in the actual or constructive custody of the federal government (later modified by TVPRA 2008).
The Violence Against Women and Department of Justice Reauthorization Act of 2005 (VAWA 2005), Public Law 109–162, 119 Stat. 2960 (Jan. 5, 2006).	• Protected a petitioner seeking SIJ classification by prohibiting DHS from compelling them to contact an alleged abuser, or family member of an alleged abuser.
The William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA 2008), Public Law 110–457, 112 Stat. 5044 (Dec. 23, 2008).	• Created the requirement that a petitioner's reunification with one or both parents not be viable due to abuse, neglect, abandonment, or a similar basis under State law (replaced a previous requirement to have ''been deemed eligible . . . for long-term foster care''). • Expanded the group of people eligible for SIJ classification to include those placed by a juvenile court with an individual or entity.

[1] The Immigration Act of 1990, Public Law 101–649, 104 Stat. 4978 (Nov. 29, 1990), added the SIJ classification. Congress has amended the eligibility criteria for SIJ classification several times, as noted in Table 1.

[2] The provisions to adjust status under INA section 245(h) were added by the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991, Public Law 102–232, 105 Stat. 1733 (Dec. 12, 1991).

[3] The protection at INA section 287(h) for a petitioner seeking SIJ classification from being compelled to contact an alleged abuser, or the abuser's family member, was added by the Violence Against Women and Department of Justice Reauthorization Act of 2005 (VAWA 2005), Public Law 109–162, 119 Stat. 2960 (Jan. 5, 2006).

TABLE 1—SUMMARY OF STATUTORY AMENDMENTS TO SIJ CLASSIFICATION—Continued

Legislation	Amendment
	• Modified the consent requirements so that DHS consent is to the grant of SIJ classification and vested the former ''specific consent'' function with HHS. • Provided age-out protection so that USCIS cannot deny SIJ classification if someone was under 21 years of age when the petition was filed. • Created a statutory timeframe of 180 days to adjudicate SIJ petitions. • Exempted SIJs from additional grounds of inadmissibility in relation to an application for adjustment of status.

C. Summary of the Proposed Rule

On September 6, 2011, DHS published a proposed rule in the **Federal Register**, proposing to amend the regulations governing the SIJ classification and related applications for adjustment of status to incorporate major statutory changes to the program. *See* Proposed rule; *Special Immigrant Juvenile Petitions,* 76 FR 54978 (Sept. 6, 2011) (''proposed rule''). The proposed rule explained the changes that DHS was considering, including procedural requirements, and that DHS would ultimately finalize the regulatory changes through the rulemaking process.

Specifically, the proposed rule sought to revise DHS regulations at 8 CFR 204.11, 205.1, and 245.1 to:

- Implement statutorily mandated changes by revising the existing eligibility requirements under the following statutes:
  - Immigration and Nationality Technical Corrections Act of 1994, Public Law 103–416, 108 Stat. 4319 (Jan. 25, 1994);
  - Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998 (CJS 1998 Appropriations Act), Public Law 105–119, 111 Stat. 2440 (Nov. 26, 1997);
  - Violence Against Women and Department of Justice Reauthorization Act of 2005 (VAWA 2005), Public Law 109–162, 119 Stat. 2960 (Jan. 5, 2006); and
  - William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA 2008), Public Law 110–457, 122 Stat. 5044 (Dec. 23, 2008).
- Clarify the use of the term ''dependent'' as used in section 101(a)(27)(J)(i) of INA, 8 U.S.C. 1101(a)(27)(J)(i), including that such dependency, commitment, or custody must be in effect when a Petition for Amerasian, Widow(er), or Special Immigrant (Form I–360) is filed and must continue through the time of adjudication, unless the age of the petitioner prevents such continuation.
- Clarify that the viability of parental reunification with one or both of the child's parents due to abuse, neglect, or abandonment, or a similar basis under State law must be determined by the juvenile court based on applicable State law.
- Clarify that DHS consent to the grant of SIJ classification is warranted only when the petitioner demonstrates that the State juvenile court determinations were sought primarily for the purpose of obtaining relief from abuse, neglect, abandonment or a similar basis under State law and not primarily for the purpose of obtaining lawful immigration status; and that the evidence otherwise demonstrates that there is a bona fide basis for granting SIJ classification.
- Clarify that USCIS may seek or consider additional evidence if the evidence presented is not sufficient to establish a reasonable basis for DHS's consent determination.
- Remove automatic revocation under 8 CFR 205.1(a)(3)(iv)(A) and (C) to the extent that they pertain to a juvenile's age and are inconsistent with age-out protections under TVPRA 2008.
- Implement statutory revisions exempting SIJ adjustment-of-status applicants from four additional grounds of inadmissibility and clarify grounds of inadmissibility that cannot be waived.
- Improve the application process by clearly listing required evidence that must accompany Form I–360 and amend what constitutes supporting documentation; and
- Make technical and procedural changes; and conform terminology.

DHS reopened the comment period on October 16, 2019, for 30 days but did not modify these proposals. Special Immigrant Juvenile Petitions, 84 FR 55250 (Oct. 16, 2019). Hereafter, DHS refers to the 2011 proposed rule and reopened comment period collectively as the notice of proposed rulemaking (NPRM).

D. Summary of Changes From the NPRM to the Final Rule Provisions

Following careful consideration of public comments received and relevant data provided by stakeholders, DHS has made several changes from the NPRM. DHS responds to each substantive public comment in detail later in this preamble and explains why it is adopting or declining the change suggested by the commenters. DHS is making the following changes from the proposed rule in this final rule:

1. Section Heading

(a) Special Immigrant Juvenile (SIJ) Classification

The preamble in the NPRM explained that DHS used the term ''dependency'' in the proposed rule as encompassing dependency, commitment, or custody. 76 FR 54979. Consistent with this definition, DHS styled the section heading for proposed 8 CFR 204.11 as ''Special immigrant classification for certain aliens declared dependent on a juvenile court (Special Immigrant Juvenile).'' Commenters wrote that this section heading was misleading and requested that it be amended to reflect the statutory language at INA section 101(a)(27)(J), 8 U.S.C. 1101(a)(27)(J). As explained previously, the statute permits USCIS to grant SIJ classification to a noncitizen whom a juvenile court has declared to be dependent on the juvenile court, *or* whom the juvenile court has legally committed to or placed under the custody of an agency or department of a State, individual, or entity. In response to these comments, DHS has simplified and amended the section heading of the regulation in the final rule to ''Special immigrant juvenile classification.'' *See* new 8 CFR 204.11.

2. Definitions

(a) Definitions of ''State'' and ''United States''

In order to establish eligibility for SIJ classification, a petitioner must submit qualifying juvenile court order(s) issued under State law. DHS proposed the definition of ''State'' in the NPRM as including an Indian tribe, tribal organization, or tribal consortium operating a program under a plan approved under 42 U.S.C. 671. *See* proposed 8 CFR 204.11(a), 76 FR 54985. After reviewing the public comments, DHS has amended the definition of ''State'' by also incorporating the

definition from INA section 101(a)(36), 8 U.S.C. 1101(a)(36), as including the District of Columbia, Puerto Rico, Guam, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands. In response to comments, the final rule clarifies that the term ''United States'' also means the definition from INA section 101(a)(38), 8 U.S.C. 1101(a)(38), as the continental United States, Alaska, Hawaii, Puerto Rico, Guam, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands. New 8 CFR 204.11(a).

(b) Definitions of ''Juvenile Court'' and ''Judicial Determination''

DHS proposed retaining the definition of ''juvenile court'' from the previous regulation, which defines ''juvenile court'' as ''a court located in the United States having jurisdiction under State law to make judicial determinations about the custody and care of juveniles.'' DHS received numerous comments suggesting that the term ''juvenile court'' should be modified to align with INA section 101(a)(27)(J)(i), 8 U.S.C. 1101(a)(27)(J)(i), which prescribes eligibility for SIJ classification based on a juvenile court's dependency or custody determination. DHS agrees that defining the term ''juvenile court'' to mirror the language of the statute would be clearer. The definition of ''juvenile court'' in the final rule is ''a court located in the United States that has jurisdiction under State law to make judicial determinations about the dependency and/or custody and care of juveniles.'' New 8 CFR 204.11(a). DHS has incorporated the definition for the term ''judicial determination'' as ''a conclusion of law made by a juvenile court'' into the final rule for further clarity. *Id.*

(c) Definitions of ''Petition'' and ''Petitioner''

Commenters requested further clarity on the definition of the term ''petitioner'' because either a juvenile (the self-petitioner) or a person acting on the juvenile's behalf can file an SIJ petition via Form I–360, Petition for Amerasian, Widow(er), or Special Immigrant. The proposed regulatory text for petition procedures states that ''[t]he alien, or an adult acting on the alien's behalf, may file the petition for special immigrant juvenile classification.'' Proposed 8 CFR 204.11(d), 76 FR 54985. This language, however, did not clarify which individual DHS would consider as the petitioner—a noncitizen, or an individual acting on the noncitizen's behalf. DHS has therefore amended the final rule to include in its definition section the term ''petitioner'' as ''the noncitizen seeking special immigrant juvenile classification,'' and the term ''petition'' as ''the form designated by USCIS to request classification as a special immigrant juvenile and the act of filing the request.'' DHS also has renamed the ''Petition procedures'' paragraph heading at proposed 8 CFR 204.11(d) to ''Petition requirements'' in the final rule, and modified paragraph (d)(1) to require ''[a] petition by or on behalf of a juvenile, filed on the form prescribed by USCIS in accordance with the form instructions.'' New 8 CFR 204.11(d).

3. Eligibility Requirements for Classification as an SIJ

(a) Eligibility Requirements That Must Be Met at the Time of Filing and Adjudication

DHS proposed that a petitioner must be under 21 years of age at the time of filing and subject to a dependency or custody order that is in effect at the time of filing and continues through the time of adjudication. *See* proposed 8 CFR 204.11(b), 76 FR 54985. The preamble to the NPRM stated that the proposed rule would continue to apply the requirement in 8 CFR 103.2(b) that an applicant or petitioner must establish that they are eligible for the requested benefit at the time of filing the benefit request and must continue to be eligible through adjudication to the requirement that a juvenile remain unmarried both at the time of filing the SIJ petition and adjudication. DHS did not specifically include this requirement for SIJ eligibility in the proposed regulatory text because 8 CFR 103.2(b) applies to eligibility for SIJ classification as it does to all USCIS benefit requests. Nevertheless, DHS has clarified the regulatory text in the final rule by providing that a petitioner must remain unmarried at the time of filing through adjudication of the SIJ petition. *See* new 8 CFR 204.11(b)(2).

4. Juvenile Court Order(s)

(a) Dependency or Custody

The proposed rule discussed custody, commitment, and dependency. *See* proposed 8 CFR 204.11(b)(1)(iv), 76 FR 54985. DHS interprets custody to encompass commitment. Therefore, it is unnecessary and redundant to use the term ''commitment'' also, and in the final rule, DHS exclusively uses the terms ''dependency'' and ''custody.'' *See* new 8 CFR 204.11(c).

(b) Qualifying Parental Reunification Determination

The eligibility provisions of the proposed rule required that a petitioner be the subject of a State juvenile court determination, under applicable State law, and that reunification with one or both parents not be viable due to abuse, neglect, abandonment, or a similar basis under State law. *See* proposed 8 CFR 204.11(b), 76 FR 54985. DHS received several comments requesting that DHS clarify that termination of parental rights is not a prerequisite for a qualifying determination on the viability of parental reunification. In response to those comments, DHS has amended the final rule to clarify that ''[t]he court is not required to terminate parental rights to determine that parental reunification is not viable.'' *See* new 8 CFR 204.11(c)(1)(ii).

(c) Best Interest Determination

DHS has long interpreted that the best interest determination is not a repatriation determination made by a Federal entity with authority over immigration determinations, but rather is a determination by a State court or administrative body regarding the best interest of the child. *See* Immigration and Naturalization Service (INS), *Special Immigrant Status; Certain Aliens Declared Dependent on a Juvenile Court; Revocation of Approval of Petitions; Bona Fide Marriage Exemption to Marriage Fraud Amendments; Adjustment of Status,* Final Rule, 58 FR 42843, 42848 (Aug. 12, 1993) (''the Service believes that the decision regarding the best interest of the beneficiary should be made by the juvenile court or the social service agency officials recognized by the juvenile court, not by the immigration judge or other immigration officials''). To further clarify this interpretation, and in response to comments, DHS added the following language for best interest determinations: ''Nothing in this part should be construed as altering the standards for best interest determinations that juvenile court judges routinely apply under relevant State law.'' New 8 CFR 204.11(c)(2)(ii).

(d) Juvenile Court Order Validity

DHS proposed an exception to the requirement that the juvenile court order be in effect at the time of filing and continue through the time of adjudication. This exception allows a petitioner to remain eligible for SIJ classification if the juvenile court order is no longer valid after filing because ''the age of the petitioner prevents such continuation.'' *See* proposed 8 CFR

204.11(b)(1)(iv), 76 FR 54985. Following the publication of the proposed rule in 2011, the government entered into a ''Stipulation Settling a Motion for Class-Wide Enforcement'' of the 2010 settlement agreement in *Perez-Olano, et al.* v. *Holder, et al.* (*Perez-Olano* Settlement Agreement). That stipulation contains a provision that a petitioner whose juvenile court order terminated solely due to age *prior* to filing the SIJ petition remains eligible. *Perez-Olano, et al.* v. *Holder, et al.,* Case No. CV 05–3604 (C.D. Cal. 2015) (emphasis added). Following this Stipulation, and in response to public comments which DHS agrees reflect a legally permissible interpretation of the statute, DHS has incorporated into the final rule an exception to the requirement that the juvenile court order be valid at the time of filing and adjudication for petitioners who, because of their age, no longer have a valid juvenile court order either prior to or subsequent to filing the SIJ petition. *See* new 8 CFR 204.11(c)(3)(ii)(B). Additionally, DHS has included another exception in response to public comments that allows petitioners to remain eligible for SIJ classification if juvenile court jurisdiction terminated because adoption, placement in permanent guardianship, or another type of child welfare permanency goal (other than reunification with the parent or parents with whom the court previously found that reunification was not viable) was reached. *See* new 8 CFR 204.11(c)(3)(ii)(A).

5. Petition Requirements

(a) Evidence of Age

In the preamble to the NPRM, DHS listed the types of documents that could be accepted as evidence of a petitioner's age, including a birth certificate, passport, official foreign identity document issued by a foreign government, or other document that, in the discretion of USCIS, establishes the petitioner's age. 76 FR 54982. In response to numerous public comments requesting that DHS allow a petitioner to submit secondary evidence or affidavits as prescribed in 8 CFR 103.2(b)(2), DHS has added both the list of documents included in the NPRM preamble and that secondary evidence or affidavits may be submitted to the final rule. *See* new 8 CFR 204.11(d)(2).

(b) Similar Basis

In the preamble to the proposed rule, DHS explained that ''[i]f a juvenile court order includes a finding that reunification with one or both parents is not viable under State law [due to a similar basis], the petitioner must establish that this State law basis is similar to a finding of abuse, neglect, or abandonment.'' 76 FR 54981. The preamble further stated that ''[t]he nature and elements of the State law must be similar to the nature and elements of abuse, abandonment, or neglect.'' *Id.* DHS received numerous comments requesting further clarification and expressing concern that such a requirement of equivalency could result in ineligibility determinations for vulnerable children found by a juvenile court to be subjected to parental maltreatment. In response to these comments, DHS provides in the final rule that the petitioner can provide evidence of a similar basis through the juvenile court's determination as to how the basis is legally similar to abuse, neglect, or abandonment under State law; or other relevant evidence that establishes the juvenile court made a judicial determination that the legal basis is similar to abuse, neglect, or abandonment under State law. New 8 CFR 204.11(d)(4).

(c) DHS Consent

DHS received numerous comments disagreeing with the interpretation of the consent function in the NPRM, with some commenters expressing concern that it impermissibly allows USCIS adjudicators to look behind the court's order. Other commenters disagreed that the consent determination included a discretionary element. The NPRM proposed that in determining whether USCIS would consent to the grant of SIJ classification, ''USCIS will consider, among other permissible discretionary factors, whether the alien has established, based on the evidence of record, that the State court order was sought primarily to obtain relief from abuse, neglect, abandonment, or a similar basis under State law and not primarily for the purpose of obtaining lawful immigration status . . . .'' Proposed 8 CFR 204.11(c)(1)(i), 76 FR 54985. The NPRM also proposed that the ''petitioner has the burden of proof to show that discretion should be exercised in his or her favor.'' Proposed 8 CFR 204.11(c)(1)(ii), 76 FR 54985. In response to comments, DHS made two key revisions to the consent provision in the final rule. First, DHS removed reference to consent as a discretionary function and clarified that the request for SIJ classification ''must be bona fide.'' New 8 CFR 204.11(b)(5). Second, in recognition that petitioners can have dual or mixed motivations for seeking the juvenile court's determinations, DHS modified the consent provision to require the petitioner ''to establish that *a primary reason* the required juvenile court determinations were sought was to obtain relief from parental abuse, neglect, abandonment, or a similar basis under State law.'' *Id.* (emphasis added).

Additionally, DHS proposed in the NPRM that a dependency or custody order and specific findings of fact were examples of evidence USCIS would consider in determining whether USCIS' consent is warranted. *See* proposed 8 CFR 204.11(d)(3), 76 FR 54985. In response to public comments requesting clarification of the evidence DHS will consider in its consent determination, the final rule provides that a petitioner must submit the court-ordered or recognized relief from parental abuse, neglect, abandonment, or a similar basis under State law granted by the juvenile court as well as the factual basis for the juvenile court's determinations. New 8 CFR 204.11(d)(5)(i) and (ii). The final rule also clarifies that ''USCIS may withhold consent if evidence materially conflicts with the eligibility requirements [for SIJ classification] . . . such that the record reflects that the request for SIJ classification was not bona fide.'' New 8 CFR 204.11(b)(5).

(d) U.S. Department of Health and Human Services (HHS) Consent

DHS proposed that HHS consent is required only if the juvenile court determines or alters the child's custody status or placement. Proposed 8 CFR 204.11(c)(2), 76 FR 54985 (using language from *Perez-Olano, et al.* v. *Holder, et al.,* Case No. CV 05–3604 (C.D. Cal. 2010)). In response to public comments requesting clarification on when HHS consent is required, DHS has clarified in the final rule to more accurately reflect the limited circumstances under which USCIS requires evidence of HHS consent as discussed at paragraphs 7 and 17 of the *Perez-Olano* Settlement Agreement. New 8 CFR 204.11(d)(6). The Settlement Agreement clarifies that the HHS consent requirement is limited to where the juvenile court is changing the custodial placement of a petitioner in HHS custody. *See Perez-Olano, et al.* v. *Holder, et al.,* Case No. CV 05–3604 at ¶ 7 and 17 (C.D. Cal. 2010). Therefore, the final rule provides that HHS consent is required only if the juvenile court alters the child's custody status or placement. New 8 CFR 204.11(d)(6)(ii).

6. No Contact

(a) Clarification of No Contact Provision

DHS proposed to codify the statutory requirement at section 287(h) of the INA, 8 U.S.C. 1357(h), that prohibits DHS from requiring that the petitioner

contact their alleged abuser at any stage of the SIJ petition process. One commenter recommended that DHS modify the regulatory text to more closely track the language at INA section 287(h), 8 U.S.C. 1357(h), which also includes individuals who battered, neglected, or abandoned the child as individuals that petitioners cannot be compelled to contact by DHS in relation to their SIJ matter. DHS agrees with this commenter and has incorporated language at new 8 CFR 204.11(e) more closely tracking the statutory language. In addition, for alignment with INA section 101(a)(27)(J)(i) regarding the eligibility requirement that reunification not be viable with a petitioner's parent(s) due to ''abuse, neglect, abandonment, or a similar basis found under State law,'' DHS is including the term ''abused'' at new 8 CFR 204.11(e).

7. Interview

(a) Ability of Trusted Adult, Attorney, or Representative To Provide a Statement

DHS proposed to permit a trusted adult, attorney, or representative to provide a statement at the petitioner's interview for SIJ classification. Proposed 8 CFR 204.11(e)(2), 76 FR 54986. However, commenters opposed this provision due to concerns that it would violate due process protections for the petitioner. Therefore, DHS has removed this provision from the final rule. The change was made to limit the ability of a non-attorney or representative to make a statement that could impact the outcome of a case given commenters' concerns that a ''trusted adult'' may not have the consent of the child to participate in the child's case and is not subject to any ethical rules or disciplinary action should they engage in misconduct. DHS does not, however, seek to inhibit the petitioner's representation by their attorney or representative, and as further addressed later in this preamble, an attorney or accredited representative is still permitted to provide a statement. DHS, has also retained the provision that the petitioner may be accompanied by a trusted adult at the interview. *See* new 8 CFR 204.11(f).

(b) Presence of Attorney or Accredited Representative at the Interview

DHS proposed that: ''USCIS, in its discretion, may place reasonable limits on the number of persons who may be present at the interview.'' Proposed 8 CFR 204.11(e)(1), 76 FR 54986. A number of commenters expressed concern with this provision and viewed this language as permitting USCIS to interview a child alone without their attorney or accredited representative. DHS did not intend to limit a petitioner's right to have their attorney or accredited representative present, and DHS has modified the final regulatory text for clarity, adding that although USCIS may limit the number of persons present at the interview, ''the petitioner's attorney or accredited representative of record may be present.'' New 8 CFR 204.11(f). This is consistent with the right to representation as codified at 8 CFR 103.2(a)(3) and 292.5(b).

8. Time for Adjudication

(a) Clarification Regarding Adjudication Processing Timeframes

DHS proposed codifying the statutory 180-day timeframe on USCIS decisions and proposed when the period would start and stop. *See* 8 U.S.C. 1232(d)(2); proposed 8 CFR 204.11(h), 76 FR 54986. Several commenters asked DHS to reconsider whether temporarily pausing or restarting the 180-day period is legally permissible. These comments reflect some level of confusion regarding the proposed requirements for the 180-day timeframe, as DHS did not intend to indicate that it would be applying a different standard with regard to the impact on required processing times for SIJ petitioners versus petitioners for all other immigration benefits. As explained in the NPRM, the 180-day benchmark would take ''into account general USCIS regulations pertaining to receipting of petitions, evidence and processing, and assuming the completeness of the petition and supporting evidence.'' *See* proposed 8 CFR 204.11(h), 76 FR 54983. To alleviate confusion, DHS has incorporated into the final rule a reference to the regulations at 8 CFR 103.2(b)(10)(i) regarding how requests for additional or initial evidence or to reschedule an interview affect the time period imposed for processing, along with clarifying that the 180-day period does not begin until USCIS has received all required initial evidence as listed at new 8 CFR 204.11(d). *See* new 8 CFR 204.11(g)(1).

(b) Impact of Requests for Evidence for Adjustment of Status Applications on Processing Timeframes

In response to a number of comments, DHS is clarifying the impact of requests for evidence (RFEs) for adjustment of status applications on the 180-day timeframe for adjudication of the SIJ petition. New 8 CFR 204.11(g)(2). DHS agrees with commenters that where a petition for SIJ classification and an application for related adjustment of status are pending simultaneously, an RFE that relates only to the application for adjustment should not pause the 180-day clock for adjudication of the SIJ petition. The 180-day period relates only to the adjudication of the SIJ petition; therefore, RFEs, notices of intent to deny (NOIDs), or other requests unrelated to the SIJ petition itself do not impact the 180-day timeframe. *Id.*

9. No Parental Immigration Benefits Based on SIJ Classification

(a) Application of Prohibition to All of Petitioner's Natural and Prior Adoptive Parents

DHS proposed that natural or prior adoptive parents of the individual seeking or granted SIJ classification cannot be accorded any right, privilege, or status under the INA by virtue of their parentage. Proposed 8 CFR 204.11(g), 76 FR 54986. Several commenters asked DHS to revisit its interpretation that the INA prohibits any parent, including a non-abusive parent, from gaining lawful status through the individual granted SIJ classification. In response, DHS notes that the statutory language is clear that ''no natural parent or prior adoptive parent of any alien provided special immigrant juvenile status . . . shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act.'' INA section 101(a)(27)(J)(iii)(II), 8 U.S.C. 1101(a)(27)(J)(iii)(II). The statute accords no preference to a parent who did not participate in the abuse or neglect. DHS has clarified the final rule by providing that the ''prohibition applies to all of the petitioner's natural and prior adoptive parent(s).'' New 8 CFR 204.11(i).

10. Revocation

(a) Moved Provisions on Automatic Revocation From 8 CFR 205.1(a)(3)(iv) to 8 CFR 204.11(j)(1)

DHS proposed to codify an automatic revocation provision for SIJ classification at 8 CFR 205.1, which contains the provisions for automatic revocation of immigration benefits generally. In the final rule, DHS has incorporated the revocation provisions for SIJ classification at 8 CFR 204.11, where the rest of the regulations governing SIJ petitions are located, for ease of reference and to retain all regulations pertaining to SIJ petitions in the same location. To minimize confusion, DHS has revised 8 CFR 205.1(a)(3)(iv) to provide that the automatic revocation provisions for SIJ classification are at 8 CFR 204.11(j)(1).

(b) Changes to the Grounds for Automatic Revocation

DHS proposed removal of the automatic revocation grounds that relate to a SIJ beneficiary's age for consistency with TVPRA 2008 section 235(d)(6), the ''Transition Rule'' provision, which provides that DHS cannot deny SIJ classification based on age if the noncitizen was a child on the date on which the noncitizen filed the petition. DHS also proposed revising the revocation ground based on a termination of the SIJ beneficiary's eligibility for long-term foster care as this is no longer a requirement under INA section 101(a)(27)(J), 8 U.S.C. 1101(a)(27)(J). Proposed 8 CFR 205.1(a)(3)(iv)(A),(B),(C), 76 FR 54986. In the final rule, DHS has incorporated these modifications to the bases for automatic revocation. New 8 CFR 204.11(j)(i),(ii). In response to public comments, DHS also has removed marriage of the SIJ beneficiary as a basis for automatic revocation, amending its prior interpretation of INA 245(h).

(c) Notice and Evidentiary Requirements

DHS added to the final rule clarifying language regarding revocation on notice and automatic revocation. New 8 CFR 204.11(j)(1) and 205.1(a)(3)(iv). This language provides information about automatic revocation of SIJ petitions by incorporating by reference the general automatic revocation provisions at 8 CFR 205.1.

(d) Revocation on Notice

DHS did not propose changes to revocation upon notice in the NPRM. However, for maximum clarity, DHS has added language that USCIS may revoke an approved SIJ petition upon notice at new 8 CFR 204.11(j)(2), incorporating by reference the general provisions for revocation on notice at 8 CFR 205.2. As beneficiaries of SIJ classification have always been subject to the provisions for revocation on notice at 8 CFR 205.2, this is a technical change to have all revocation provisions for SIJs in 8 CFR 204.11.

11. Eligibility for Adjustment of Status

(a) Requirements for SIJ-Based Adjustment of Status

In response to comments, DHS has revised 8 CFR 245.1(e)(3) to provide separate standards for SIJ-based adjustment of status. DHS also has added new 8 CFR 245.1(e)(3)(i) to clarify that a noncitizen who has been granted SIJ classification will be deemed paroled into the United States for the limited purpose of meeting one of the eligibility requirements for SIJ-based adjustment of status.

(b) Bars to Adjustment, Inadmissibility, and Waivers

DHS received many public comments regarding the proposal that only certain grounds of inadmissibility could be waived for humanitarian purposes, family unity, or when it is otherwise in the public interest under INA section 245(h)(2)(B), 8 U.S.C. 1255(h)(2)(B), and that the grounds not listed under this statutory provision are unwaivable for SIJ adjustment applicants. *See* 76 FR 54983. Commenters disagreed with this interpretation and wrote that pursuant to INA section 212, 8 U.S.C. 1182, an applicant classified as an SIJ may apply for a waiver for any applicable ground of inadmissibility for which a waiver is available. The commenters stated that while certain grounds of inadmissibility cannot be waived under INA section 245(h)(2)(B), 8 U.S.C. 1255(h)(2)(B), they can be waived under other waiver provisions of the INA, such as INA section 212(h). In response to these comments, in the final rule DHS has modified its interpretation of INA section 245(h)(2)(B) and now clarifies that nothing in the final rule should be construed to bar an applicant classified as an SIJ from a waiver for which the applicant may be eligible pursuant to INA section 212.

DHS has also modified 8 CFR 245.1(e)(3) to expand when a waiver at INA section 245(h)(2)(B) is available for inadmissibility under section 212(a)(2) based on the ''simple possession exception.'' DHS had proposed in the NPRM that a waiver is available for inadmissibility under INA section 212(a)(2)(C), 8 U.S.C. 1182(a)(2)(C) (controlled substance traffickers), if the offense is related to a single offense of simple possession of 30 grams or less of marijuana. *See* proposed 8 CFR 245.1(e)(3), 76 FR 54983, 54986. The simple possession exception was applied in the proposed rule to only INA section 212(a)(2)(C) based on a plain language reading of INA section 245(h)(2)(B), which provides that in determining an SIJ's admissibility as an immigrant:

[T]he Attorney General may waive other paragraphs of section 212(a) (other than paragraphs (2)(A), (2)(B), (2)(C) (except for so much of such paragraph as related to a single offense of simple possession of 30 grams or less of marijuana), (3)(A), (3)(B), (3)(C), and (3)(E)) in the case of individual aliens for humanitarian purposes, family unity, or when it is otherwise in the public interest.

In the final rule, DHS has expanded application of the simple possession exception to the grounds of inadmissibility under INA section 212(a)(2)(A), 8 U.S.C. 1182(a)(2)(A) (conviction of certain crimes), INA section 212(a)(2)(B), 8 U.S.C. 1182(a)(2)(B) (multiple criminal convictions), and INA section 212(a)(2)(C), 8 U.S.C. 1182(a)(2)(C) (controlled substance traffickers). *See* new 8 CFR 245.1(e)(3)(v)(A). This modification was the result of a recent Board of Immigration Appeals decision in *Matter of Moradel,* which conducted a statutory analysis of the scope of the simple possession exception under INA section 245(h)(2)(B) and concluded that it ''applies to all of the provisions listed under section 212(a)(2)'' and that ''Congress intended the 'simple possession' exception in section 245(h)(2)(B) to be applied broadly.'' 28 I&N Dec. 310, 314–315 (BIA 2021).

(c) No Parental Immigration Benefits Based on SIJ Classification

DHS has provided standards that relate to SIJ-based adjustment of status and incorporated them into 8 CFR 245.1(e)(3) in response to comments that the proposed rule conflated standards for SIJ classification and SIJ-based adjustment of status. For clarity, and because the prohibition on parental immigration benefits applies to SIJ petitioners and applicants for related adjustment of status, DHS has amended 8 CFR 245.1(e)(3)(vi) to add the same text used at new 8 CFR 204.11(i).

(d) No Contact

Several commenters requested that DHS extend the prohibition in INA section 287(h), 8 U.S.C. 1357(h), against USCIS compelling SIJ petitioners to contact their alleged abuser(s) to the proceedings related to SIJ-based adjustment of status. DHS agrees that it is reasonable to extend this prohibition to the adjustment of status proceedings given that adjustment of status applications may be pending concurrently with SIJ petitions. DHS has revised 8 CFR 245.1(e)(3)(vii) to incorporate the no contact provision.

E. Summary of Costs and Benefits

The provisions of the final rule subject to this regulatory impact analysis will either affect a petitioners' eligibility or directly alter the petitioning and adjudication process. DHS expects the final rule to affect the following stakeholder groups: Petitioners for SIJ; State juvenile courts and appellate courts; and the Federal Government. The population of juveniles interested in attaining SIJ

classification, adjusting status, and obtaining lawful work authorization are required to initially submit Form I–360. The cost of the final rule affects newly eligible SIJ petitioners under the no action baseline. The provisions of the final rule subject to this regulatory impact analysis are examined against two baselines: (1) The pre statutory baseline; and (2) the no action baseline. The pre statutory baseline would evaluate the clarifications in petitioners' eligibility made by TVPRA 2008. In analyzing each provision against the pre statutory baseline, DHS finds that these clarificatory changes have no quantifiable impact on eligibility. Stated alternatively, in the absence of the TVPRA 2008 provisions codified by this rule, DHS has no evidence suggesting SIJ trends would have behaved differently in the intervening years. Consequently, this analysis focuses on the no action baseline and those regulatory provisions affecting the petitioning-adjudicating process and then analyzes the historical growth of demand for and grants of SIJ classification in order to assess the benefits and costs accruing to each stakeholder.

Relative to the no action baseline, the final rule will impose costs on a group of petitioners who will now be eligible to submit Form I–601, Form I–485 and Form I–765 once they already have an approved SIJ classification. This final rule will allow SIJ beneficiaries who get married prior to applying for LPR status to remain eligible to obtain permanent residence. This rule will also allow SIJ beneficiaries who have simple possession offenses to submit Form I–601 to apply for a waiver of inadmissibility under any of the provisions listed at INA section 212(a)(2), 8 U.S.C. 1182(a)(2). DHS assumes that every petitioner who will not have their SIJ classification revoked because of marriage will file Form I–485 which will result in new costs (and benefits) to those petitioners.

The changes in this final rule will not impact Form I–360 petitioners currently applying for SIJ classification under the no action baseline, however the impacts will be discussed in the pre statutory baseline discussion. The changes in this final rule will update regulations to reflect statutory changes, modify certain provisions, codify existing policies, clarify eligibility requirements, and will not impact children applying for SIJ classification. DHS has required this additional evidence since the TVPRA 2008. Due to data limitations that preclude identification of the unrelated factors that explain the changes in the volume of petitioners observed over time, DHS is limited in its ability to assess Form I–360 data. The primary benefit of the rule to USCIS is greater consistency with statutory intent, and efficiency.

II. Background

A. Special Immigrant Juvenile (SIJ) Classification

Congress created the SIJ classification through the Immigration Act of 1990 to provide humanitarian protection for certain abused, neglected, or abandoned juveniles in the child welfare system who were eligible for long-term foster care. Through several legislative amendments, this protection evolved to include juveniles outside the foster care system. The statutory provisions for SIJ classification at INA section 101(a)(27)(J), 8 U.S.C. 1101(a)(27)(J), require a juvenile court determination that:

- The juvenile is dependent on the court, or is under the custody of a State agency or department or an individual or entity appointed by the court;
- Reunification with one or both of the juvenile's parents is not viable due to abuse, neglect, abandonment, or a similar basis under State law; and
- It would not be in the juvenile's best interest to return to the juvenile's (or their parent's) country of nationality or last habitual residence.

In addition, the juvenile must be under 21 years of age and unmarried. SIJ classification may be granted only upon the consent of the Secretary of Homeland Security, through USCIS.

A petitioner who has been classified as an SIJ is eligible to apply for adjustment of status. Petitioners for SIJ classification do not have the ability to include other family members who may derive LPR status based on their status (derivatives) on their petition, nor are they ever eligible to sponsor their natural or prior adoptive parents for any immigration benefit.

The previous regulations governing SIJ classification at 8 CFR 204.11 were published in in 1993.[4] 58 FR 42843. This rule updates the regulations as required by statutory amendments to the SIJ statute since that time and further aligns the benefit with the statutory purpose of providing humanitarian protection to eligible child survivors of parental abuse, abandonment, or neglect.

B. Final Rule

DHS adopts most of the regulatory amendments proposed in the NPRM and makes key clarifying changes based on public comments. DHS explains in this rule why we are making changes or adopting the proposed regulatory amendments without change. The changes to the regulatory text are summarized previously in Section I, and they are discussed in further detail later in Section III. This final rule does not respond to comments that are general in nature or seek a change in U.S. laws, regulations, or agency policies that are unrelated to the SIJ classification or SIJ-based adjustment of status. This final rule also does not change the procedures or policies of other Federal agencies or State courts, nor does it resolve issues outside the scope of the rulemaking. All comments can be reviewed at the Federal Docket Management System at *https://www.regulations.gov,* docket number USCIS–2009–0004.

III. Response to Public Comments on Proposed Rule

A. Summary of Public Comments

On October 16, 2019, DHS reopened the comment period on the proposed rule for 30 days to provide the public with further opportunity to comment on the proposed rule. 84 FR 55250 (Oct. 16, 2019). During the initial comment period for the proposed rule, DHS received 57 public comments. DHS received an additional 77 comments on the proposed rule during the reopened comment period. In total, between the two comment periods, DHS received 134 comments.[5] DHS has reviewed all 134 of the public comments received and addresses them in this final rule.

B. General and Preliminary Matters

1. General Support for the Proposed Rule

Comment: Several commenters expressed general support of SIJ classification and favored finalizing the proposed rule and protecting vulnerable children in our society. Two commenters wrote that they appreciated DHS incorporating the protections and expansions from TVPRA 2008.

Response: DHS appreciates commenters' general support for this rulemaking and for its ongoing efforts to protect vulnerable children in accordance with the text and purpose of the statute.

Comment: Two commenters indicated that they supported the proposed rule because the clarification of certain terms and elimination of ambiguous language

[4] 8 CFR 204.11 was amended in 2009 to eliminate reference to legacy INS in accordance with the creation of DHS. 74 FR 26937 (June 5, 2009).

[5] Six additional comments were received but not posted on *www.regulations.gov* or considered by DHS because they were identified as being duplicate, irrelevant, or internal comments.

aids in understanding and prevents unintended consequences in the interpretation of the regulation by the relevant authorities.

Response: DHS appreciates commenters' support of the clarifications in this rulemaking. DHS agrees and hopes that this rule will improve adjudications and the SIJ petition and related adjustment of status application processes for SIJs by eliminating ambiguities and updating the regulation to reflect statutory changes and the statutory purpose of providing humanitarian protection to eligible child survivors of parental abuse, abandonment, or neglect.

Comment: Several commenters expressed support for the rule but stated that they did not want the benefit to go to those who might be engaging in fraud or abuse or those who do not meet certain criteria. One commenter stated they hoped that USCIS would strictly scrutinize the background of applicants to ensure the benefit goes to those ''who really need it.'' Another commenter stated that they agreed with the proposed rule, but only if ''the parents have abandoned the children'' or there were ''some sort of child abuse.''

Response: DHS appreciates commenters' support of the rule. USCIS endeavors to screen all benefits for fraud to ensure that only those eligible receive them. The statute governing SIJ eligibility at INA section 101(a)(27)(J), 8 U.S.C. 1101(a)(27)(J), states that a petitioner may be eligible if reunification with their parent(s) is not viable due to abuse, neglect, abandonment, or a similar basis under State law. DHS cannot make changes to the rule that conflict with the statutory requirements of SIJ eligibility.

Comment: Two commenters stated that they believe that the SIJ program is a beneficial program and advocated further ''revising the law to be looser for children'' and to make the immigration system as a whole looser for those without criminal records.

Response: DHS appreciates commenters' support and has implemented the SIJ program as authorized by Congress. DHS is therefore unable to make any changes in response to these comments to the extent such changes would exceed its rulemaking authority. This rule modifies the regulations surrounding SIJs specifically, not those impacted by the immigration system without criminal records, and DHS believes the changes provide greater clarity and further align the SIJ program with the statutory purpose.

2. General Opposition to the Proposed Rule

Comment: Several commenters opposed the proposed rule on the basis that they did not agree with the statutory SIJ classification because they viewed it as giving ''amnesty'' to foreign-born children or using taxpayer dollars to provide benefits for foreign born children, rather than U.S. citizen children in need.

Response: DHS has implemented the SIJ program as authorized by Congress. DHS also notes that the costs of USCIS are generally funded by fees paid by those who file benefit requests and not by taxpayer dollars appropriated by Congress. *See* INA section 286(m), 8 U.S.C. 1356(m). DHS made no changes in response to these comments.

Comment: One commenter said that the proposed regulations fail to meet their objective of clarifying procedural and substantive requirements for the SIJ petition by adding extraneous requirements that fall outside Congress' intention to provide protection to a vulnerable population.

Response: DHS disagrees with the commenter and does not believe that any extraneous requirements were added beyond those imposed by Congress. DHS's intent with this rule is to amend the regulations to reflect statutory changes that have taken place since the previous regulations were published and to further align the program with the statutory purpose. With regard to the commenter's specific concerns, DHS has addressed each concern in subsequent sections of the preamble.

Comment: A commenter wrote that the proposed rule would impermissibly restrict the due process rights of affected migrants who are minors in ways that conflict with United States obligations under international law and violate customary international law.

Response: DHS disagrees with commenters that the rule violates international law. The commenter does not specify any provision in the proposed rule that would negatively affect an immigrant minor's due process rights. DHS knows of no changes in the rule that deny, restrict, or limit the rights of a minor to due process nor of any international laws or principles that the rule violates. Therefore, DHS is making no changes in the final rule as a result of this comment.

Comment: One commenter, referencing the USCIS press release announcing the reopening of the comment period, stated that conclusory statements that impugn the motives of SIJ petitioners wholesale are improper, impart at minimum an appearance of bias to adjudications, and thereby increase the risk of unfounded denials of relief and attendant risk that children will be returned to harm. The commenter urges DHS to include language in the rule clarifying that adjudicators must consider any application for SIJ on its own merits, to underscore DHS's commitment to fair adjudications for all children seeking humanitarian protection.

Response: DHS respectfully disagrees that the rule's announcement contained conclusory statements that impart a bias to adjudicators. Adjudicators evaluate each petition on its own merits, and DHS does not imply any predetermined outcomes as a result of this rule. DHS remains committed to the fair and just adjudication of all immigration benefit requests. At the same time, DHS will continue vetting all immigration benefit requests to ensure they are granted only to those who are eligible. This requires DHS to ensure that petitioners do not obtain benefits for which they are not eligible under the law.

Comment: Several commenters said that it is inappropriate that SIJ visa numbers are assigned to the employment-based fourth preference (EB–4) visa category and wrote that visa numbers in the EB–4 category should go only to employment-based immigrants. Some commenters wrote that those with SIJ classification were taking visa numbers away from skilled workers and stated that SIJ visa numbers should be placed in a separate category. Other commenters said that for SIJ petitioners to qualify for a visa number under the EB–4 category, they should be subject to requirements for other employment-based immigrants, such as being in status at the time of applying to adjust and having a bona fide relationship to the United States.

Response: DHS is unable to address commenters' concerns because SIJ classification is one of a number of disparate immigrant classifications that collectively are under the EB–4 category pursuant to INA section 203(b)(4), 8 U.S.C. 1153(b)(4). As the designation of SIJ visa numbers under the EB–4 category is statutory, it cannot be altered via this rulemaking.

3. Decision

(a) Decision Section and Notification of Appeal Rights

In response to public comments, DHS added to the final rule a section regarding notification of decisions and appeal rights on petitions at new 8 CFR 204.11(h). Such a section was in the previous rule at 8 CFR 204.11(e) (58 FR

42850), but it had been omitted from the NPRM because USCIS regulations at 8 CFR part 103 provide for such notifications and appeals. However, DHS has included it in the final rule to ensure full clarity for SIJ petitioners.

4. Section Heading

Comment: Nine commenters thought that the section heading of proposed 8 CFR 204.11, ''Special immigrant classification for certain aliens declared dependent on a juvenile court (Special Immigrant Juvenile),'' should be changed to reflect all of the categories of individuals who may be eligible.

Response: DHS agrees that the section heading should be amended because juvenile court dependents are only one of several categories of individuals who may be eligible under INA section 101(a)(27)(J), 8 U.S.C. 1101(a)(27)(J). DHS thinks it best to simply change the section heading to ''Special immigrant juvenile classification.'' *See* new 8 CFR 204.11. This section heading is much more succinct and still ensures that the section heading is inclusive of all eligible individuals.

5. Terminology

Comment: Several commenters wrote about the use of the term ''alien'' in the proposed rule. While some supported the use of the term and noted that it is a legally defined term of art under the INA, others contended that use of the term encourages negative stereotyping of undocumented people. These commenters recommended that the term ''alien'' be removed from the regulatory text and not be used to refer to the individual seeking SIJ classification.

Response: While the term ''alien'' is a legal term of art defined in the INA for immigration purposes, DHS recognizes that the term has been ascribed with a negative, dehumanizing connotation, and alternative terms, such as ''noncitizen,'' that reflect our commitment to treat each person the Department encounters with respect and recognition of that individual's humanity and dignity are preferred. DHS will use the term ''alien'' when necessary in the regulatory text as the term of art that is used in the statute, but where possible we will use the term ''petitioner'' to refer to those who are seeking SIJ classification, and the term ''applicant'' to refer to those who are seeking adjustment of status based upon classification as an SIJ. *See, e.g.,* new 8 CFR 204.11(a) and 245.1(e)(3).

Comment: One commenter noted that DHS used both the terms ''status'' and ''classification'' in referring to SIJ and asked DHS to be clear in the use of these terms.

Response: DHS agrees with the commenter that the rule should be consistent in the use of those terms. SIJ is a ''classification''; an individual does not receive an actual ''status'' until they become an LPR based on the underlying SIJ classification. For clarity, DHS uses ''classification'' throughout this rulemaking when referring to the SIJ benefit itself. *See, e.g.,* new 8 CFR 204.11(a).

Comment: One commenter requested that the term ''juvenile'' be replaced with the term ''immigrant'' when referring to the person seeking classification as an SIJ because the statute never refers to the ''special immigrant'' as a juvenile. Another commenter noted that if DHS intends that an adult filing on behalf of an individual can function as the ''petitioner,'' then DHS should replace the word ''petitioner'' with ''alien'' for clarity and consistency.

Response: DHS declines to make the changes requested by the commenters. DHS uses the term ''petitioner'' to refer to the noncitizen seeking SIJ classification but includes in the regulatory text that another person may file on the petitioner's behalf. *See* new 8 CFR 204.11(d)(1). DHS does not make any changes in this rule to DHS regulations governing who can file a petition on behalf of a child at 8 CFR 103.2. DHS will therefore use the more appropriate term ''petitioner'' to refer to the person seeking SIJ classification.

6. Organization

Comment: Several commenters thought that the way DHS organized the information in the proposed rule relating to SIJ classification and the related SIJ-based adjustment of status seemed to conflate the two standards.

Response: DHS agrees with commenters that its proposed layout may raise confusion. In the final rule, DHS separates the requirements for SIJ-based adjustment of status into 8 CFR 245.1(e)(3), and limits 8 CFR 204.11 to requirements for SIJ classification.

7. Effective Date

Comment: One commenter asked DHS to consider grandfathering or creating an exception for those individuals who could not file under the previous rule, especially those who could qualify only if both parents abused, neglected, or abandoned the individual.

Response: DHS appreciates this concern; however, the change the commenter was referring to was statutory, and without clear congressional instruction to retroactively apply provisions of TVPRA 2008, DHS declines to make changes based on this comment. DHS did implement the changes in 2008, consistent with the statutory language. Any cases filed after that date did benefit from those statutory changes, though USCIS regulations did not reflect the change. DHS cannot however apply those statutory changes retroactively to petitions filed prior to passage of TVPRA 2008. DHS notes that a petitioner is required to establish eligibility at the time of filing and remain eligible through adjudication of the petition. 8 CFR 103.2(b)(1). Statutes are generally prospective only, but Congress may apply a statute retroactively if it includes clear language providing for retroactive application in the legislation. For example, Congress did so in the VAWA 2013 changes to U nonimmigrant status (victims of crime). Violence Against Women Reauthorization Act of 2013, Public Law 113–4 (Mar. 7, 2013) (VAWA 2013). In creating age-out protection providing that certain qualifying family members of U nonimmigrant petitioners must file a request before the age of 21, but may exceed that age while the request is being processed, Congress added an effective date that says the amendment ''shall take effect as if enacted as part of the Victims of Trafficking and Violence Protection Act of 2000.'' VAWA 2013 section 805(b). Without such clear statutory authority in TVPRA 2008, DHS will not apply its SIJ provisions retroactively.

8. Regulatory Comments

Comment: One commenter wrote that the rule is arbitrary and capricious in violation of the Administrative Procedure Act (APA) because DHS did not provide reasoned justifications for its changes to longstanding policies.

Response: The commenter does not indicate which changes that DHS proposed were not sufficiently explained. Nevertheless, DHS provided a detailed explanation for each of its proposed regulatory provisions governing the SIJ program. *See* 76 FR 54979–54983. DHS also summarized the changes again in the comment period extension notice to refresh the public comments. *See* 84 FR 55250–55251. In addition, the changes are mainly in the nature of changes to implement statutory revisions, clarifying changes, changes to improve the application process, or to make technical and procedural changes. The changes are not major departures from longstanding DHS positions, and they do not rely on factual findings that contradict those that underlay our prior policy.

Comment: Three commenters said that the proposed rule did not conduct the regulatory analysis required under Federal law and executive orders. One commenter stated that the NPRM's assessment that there will be no economic impact is inaccurate because the rule imposes a higher standard of review for the consent analysis, which will increase costs for USCIS and slow adjudications. Additionally, this commenter stated that the prediction in the NPRM that the fee impacts on petitioners are neutral is inaccurate as filings have increased beyond those expected at the time the proposed rule was issued.

Response: USCIS provided an economic analysis in the NPRM and is updating the analysis in this final rule. *See* 76 FR 54984. The commenters correctly note that DHS stated that the fee impacts of this rule on each SIJ petitioner as well as on USCIS are neutral because USCIS estimates that filings for SIJ classification will continue at about the same volume as they have in the relatively recent past. *Id* DHS disagrees that this rule's consent analysis will delay adjudications and increase costs for USCIS. The proposed rule also stated the fees for the forms filed by petitioners seeking SIJ classification, including Form I–485, Application to Register Permanent Residence or Adjust Status, and Form I–601, Application for Waiver of Ground of Inadmissibility, were not affected by the rule. This rule does not change the fees that will be paid by SIJ petitioners. As noted in the economic analysis for this final rule, the number of SIJ petitioners has increased since the proposed rule, and the fees have changed as a result of rules other than this one. *See* 81 FR 73292 (Oct. 24, 2016). Generally, though, SIJ petitioners are eligible to request fee waivers for USCIS benefit requests. USCIS has provided an updated regulatory impact analysis of changes being made in this rule in Section IV.A, ''Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review)''.

Comment: Several commenters stated that the proposed rule was outdated and stale because of the time that elapsed between the issuance of the NPRM in 2011 and the reopening of the comment period in 2019. Three commenters noted that the results of the review of the Office of Management and Budget (OMB) are therefore outdated and unreliable for a current assessment of the proposed rule's costs and benefits. These commenters requested that DHS withdraw the NPRM pending new review and analysis by OMB in light of current USCIS procedures and policies. Another commenter requested that USCIS update its proposal and provide a revised proposed rule in a supplemental notice of proposed rulemaking that would allow comment on a complete proposal that reflects the current state of the law.

Response: DHS recognizes that approximately 10 years have passed since it first proposed changes to the SIJ program through rulemaking and accordingly stated that it reopened the comment period ''to refresh this proposed rule and allow interested persons to provide up-to-date comments in recognition of the time that has lapsed since the initial publication of the proposed rule.'' 84 FR 55251. Prior to reopening the comment period in 2019, DHS assessed the changes to the program since the rule was proposed 8 years prior and determined that it was still interested in its original proposals, and that it would reopen the comment period to account for any changes over the years, to the extent that there were any for which it previously did not account. In this final rule, DHS is responding to both the comments received on the proposed rule in 2011 and the comments received in response to the reopened comment period. DHS disagrees that it should issue a supplemental notice to reflect the current state of the law because the law has not changed—the last statutory update to the SIJ portfolio occurred in 2008, prior to publishing the NPRM. Further, DHS disagrees that it should withdraw the rule pending new OMB review. DHS acknowledges that the adequacy of the notice provided and comments received can depend on if the situation around the rulemaking has changed so much that there was new or different information that the agency should have offered or the public could have provided for consideration.[6] DHS does not believe that there have been significant changes in the basis for the proposed rule. Nevertheless, while the information for the public to consider was not new or changed, DHS published a notice requesting a new round of public comment to ensure that the public had notice of the proposed rule and relevant background information and that DHS had current input from affected stakeholders close to the time of decision.

The reopening of the comment period and the final rule have gone through OMB review prior to publication. To the extent that data have changed and developed in the years since the proposed rule was published, DHS has updated relevant data accordingly.

Comment: Two commenters stated that the proposed rule does not satisfy the criteria and fundamental principles of federalism required under Executive Order (E.O.) 13132. These commenters request that DHS withdraw the proposed rule and defer to the States on areas of traditional State expertise related to the administration of SIJ petitions, or, in the alternative, that DHS issue a federalism summary impact statement if it does move forward with the rule. Similarly, several commenters wrote that the proposed rule lacks statutory authority because State courts, not Federal immigration agencies, have the requisite expertise in child-welfare issues that should not be second-guessed by USCIS SIJ adjudicators and that DHS improperly encourages a re-examination of the State court's order; requires the petitioner to prove the underlying motivation behind the State child-welfare assistance sought; and mandates the disclosure of evidence treated as confidential by the States.

Response: DHS disagrees with commenters that this rulemaking implicates federalism concerns. Specifically, INA section 101(a)(27)(J), 8 U.S.C. 1101(a)(27)(J), sets clear parameters for the extent of State versus Federal involvement in the SIJ process: ''who has been declared dependent on a juvenile court located in the United States . . . and in whose case the Secretary of Homeland Security consents to the grant of special immigrant juvenile status.'' Neither the proposed rule nor this final rule modifies the extent of State involvement. As for the commenter's assertion that DHS violated E.O. 13132 (Federalism) because it inadequately analyzed the rule's impacts on States, DHS reiterates for this final rule that the regulation will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. The United States Government's authority to regulate immigration and noncitizen status is broad, and stems in part from its constitutional power to ''establish a uniform rule of Naturalization,'' Art. I, § 8, cl. 4, and on its sovereign power to control and conduct foreign relations. *Arizona* v. *United States,* 567 U.S. 387 (2012). Under the Supremacy Clause, states are precluded from regulating conduct in a field that Congress has expressly determined must be regulated at the federal level or where Congress

[6] *See Idaho Farm Bureau Fed'n* v. *Babbitt,* 58 F.3d 1392 (9th Cir. 1995); *Mobil Oil Corp.* v. *EPA,* 35 F.3d 579, 584–85 (D.C. Cir. 1994).

has created a framework of regulation so pervasive that there is no room for the States to supplement it. *Id.* at 399. Here, the role of DHS is to adjudicate SIJ petitions to determine eligibility for SIJ classification and adjustment of status as prescribed by the INA—a field in which the States have no role. Accordingly, it is entirely appropriate for USCIS officers when adjudicating an SIJ petition to review the State court determinations to determine if a primary reason the petitioner sought the juvenile court determinations was to obtain relief from abuse, neglect, abandonment, or a similar basis under State law, because this review is necessary for USCIS to make the consent determination required by the INA. On the other hand, under this rule DHS has no role in making dependency or custodial determinations or granting relief from abuse, neglect, or abandonment, or a similar basis under State law, which is a field properly reserved to the States.

9. Miscellaneous

Several comments were submitted that did not relate to the substance of the NPRM, and will, therefore, not be individually discussed. These comments related to areas such as writing style and other issues outside of the scope of this rulemaking, including comments on the USCIS Policy Manual or Administrative Appeals Office (AAO) Adopted Decisions, recommendations not pertaining to this rule, and general statements unrelated to the substance of the regulation. DHS has reviewed and considered all such comments and incorporated them as applicable.

C. Definitions

1. ''State''

Comment: Six commenters recommended that DHS change the proposed definition of ''State'' to encompass all geographic areas under the administrative control of the United States. Another commenter pointed out that to define ''State'' but not ''United States'' was an oversight.

Response: DHS agrees with the commenters that the proposed definition of ''State'' appears incomplete and will adopt the INA definitions for ''State'' and ''United States,'' which are established immigration terms of art. This final rule amends the definition of ''State'' and adds the definition for ''United States'' at 8 CFR 204.11(a) by making reference to the INA definitions.

2. ''Juvenile Court''

Comment: Twenty-three commenters recommended changes to the definition of ''juvenile court.'' Four commenters requested that the definition expressly indicate that qualifying juvenile courts that can issue orders include delinquency courts. One commenter wrote that the use of the term ''juvenile court'' did not track statutory language, which allows for a custody determination by a State juvenile court. Eighteen commenters requested that the term ''juvenile court'' be modified to align with INA section 101(a)(27)(J)(i), 8 U.S.C. 1101(a)(27)(J)(i), which recognizes juvenile court dependency or custody determination. One commenter suggested that the final rule be consistent with the definition of ''juvenile court'' from the AAO Adopted Decision, *Matter of A–O–C–,* which states that ''petitioners must establish that the court had competent jurisdiction to make judicial determinations about their dependency and/or custody and care as juveniles under State law.'' *Matter of A–O–C–,* Adopted Decision 2019–03, at 4 (AAO Oct. 11, 2019). One commenter suggested that the term ''juvenile court'' include the custody, care, guardianship, delinquency, or best interest of the juvenile. Another commenter suggested that the definition include care, custody, dependency, and/or placement of a child.

Response: DHS agrees with the commenters that the definition of ''juvenile court'' should include dependency to align with INA section 101(a)(27)(J)(i), 8 U.S.C. 1101(a)(27)(J)(i), and the guidance provided in *Matter of A–O–C–.* The final rule defines ''juvenile court'' as a court located in the United States that has jurisdiction under State law to make judicial determinations about the dependency and/or custody and care of juveniles. New 8 CFR 204.11(a). The final rule defines the term ''judicial determination'' as a conclusion of law made by a juvenile court. *Id.* Further, State law, not federal law, governs the definition of ''juvenile,'' ''child,'' ''infant,'' ''minor,'' ''youth,'' or any other equivalent term for juvenile which applies to the dependency or custody proceedings before the juvenile court. The final rule therefore requires the juvenile court to have exercised its jurisdiction over petitioners as juveniles (or other equivalent term) under the applicable State law. New 8 CFR 204.11(c)(3)(i).

DHS, however, declines to specify the types of courts that have jurisdiction to make judicial determinations about the dependency and/or custody and care of a juvenile. The definition of ''juvenile court'' in the final rule already encompasses various types of State courts that have the jurisdiction to make judicial determinations about the dependency and/or custody and care of juveniles, and it does not limit qualifying courts to those specifically named ''juvenile'' courts. New 8 CFR 204.11(a). The names and titles of State courts that may act in the capacity of a juvenile court to make the types of determinations required to establish eligibility for SIJ classification may vary State to State. A court by a particular name may have such authority in one State, but not in another. DHS also declines to include ''care,'' ''guardianship,'' ''delinquency,'' ''placement of a child,'' or ''best interest of the juvenile'' as part of the definition of ''juvenile court'' for the same reason—that a variety of types of proceedings may result in a qualifying order for SIJ classification, and DHS does not want to create a list that may be interpreted as exhaustive.

Comment: A commenter stated that the requirement in the NPRM for a petitioner to submit a juvenile court order issued by a court of competent jurisdiction located in the United States is redundant because the definition of the term ''juvenile court'' already addresses the jurisdictional and geographical limitations of the juvenile court.

Response: DHS agrees with this comment. Because the term ''juvenile court'' is defined in the final rule as a court located in the United States that has jurisdiction under State law, DHS has removed the proposed provision stating that the juvenile court order be issued by a court of competent jurisdiction. *See* new 8 CFR 204.11(a).

D. Eligibility Requirements for Classification as a Special Immigrant Juvenile

This final rule adopts the eligibility requirements proposed in the NPRM regarding age, unmarried status, and physical presence. New 8 CFR 204.11(b)(1) through (3). The reasoning provided in the preamble remains valid with respect to general eligibility and is incorporated here by reference. DHS has modified and added language to the regulatory text on juvenile court order requirements and validity based on public comments and on policy decisions made after publication of the proposed rule. The changes to the regulatory text are summarized in this preamble in Section I.

Several commenters raised the issue of what point in time (time of filing or time of adjudication) USCIS assesses eligibility for SIJ classification. In general, absent any clear statutory authority or compelling reason that

suggests otherwise, DHS applies the general rule that ''[a]n applicant or petitioner must establish that he or she is eligible for the requested benefit at the time of filing the benefit request and must continue to be eligible through adjudication.'' 8 CFR 103.2(b)(1). A petitioner who does not meet the eligibility requirements at the time of filing (and as later described in this rule, where applicable, the time of adjudication) is not eligible for SIJ classification. Exceptions to this general rule for specific SIJ classification eligibility requirements are addressed in the following discussion of the individual eligibility requirements.

The following table illustrates at what points during the petition and adjudication process USCIS will assess each eligibility requirement.

TABLE 2—SIJ ELIGIBILITY REQUIREMENTS AT TIME OF FILING AND TIME OF ADJUDICATION OF FORM I–360

Eligibility requirement	Time of filing Form I–360	Time of adjudication Form I–360
Under 21 years of age	Yes	No.
Unmarried	Yes	Yes.
Physical presence	Yes	Yes.
Valid juvenile court order	Yes, unless meets one of the two exceptions	Yes, unless meets one of the two exceptions.

1. Under 21 Years of Age

As explained in the proposed rule, under TVPRA 2008, USCIS may not deny SIJ classification based on age if the noncitizen was a child on the date on which they petitioned for SIJ classification (hereafter referred to as ''age-out protection''). TVPRA 2008 section 235(d)(6), 8 U.S.C. 1232(d)(6). Under section 101(b)(1) of INA, 8 U.S.C. 1101(b)(1), a ''child'' is defined as under 21 years of age and unmarried. Through these provisions, Congress has expressed an intent that SIJ classification requires that the non-citizen be under the age of 21 only at the time of filing.

Comment: Twelve commenters supported DHS's proposed change to prohibit USCIS from denying SIJ classification based on age if the individual was a child on the date on which they petitioned for SIJ classification. One commenter thought that the proposed rule drew an ''arbitrary line'' at the age of 21 and that DHS was disqualifying any person over the age of 21 from protections from deportation. Some commenters indicated that DHS should give higher priority to petitioners less than 10 years old than to those who are 18 to 21 years of age without severe disabilities.

Response: DHS does not make any changes based on these comments because the age limit is set by statute. DHS does not have the authority to expand the program beyond the age the law permits nor to give preference to one age group over another. *See* TVPRA 2008 section 235(d)(6), 8 U.S.C. 1232(d)(6). DHS will require that the petitioner be under 21 years of age only at the time of filing at new 8 CFR 204.11(b)(1).

2. Unmarried

Comment: One commenter agreed with the retention of the requirement that a petitioner remain unmarried through the adjudication of the SIJ petition. The commenter recommended that the final regulation further clarify that USCIS will consider other similar indicia of emancipation when determining whether USCIS should consent. The commenter said that for example, the regulation should clarify that the status of a civil union or common law marriage will be an indication of the legal equivalent of emancipation through marriage.

Response: USCIS will consider a noncitizen's eligibility for SIJ classification based on the preponderance of the evidence in its assessment of whether a primary reason the petitioner sought the required juvenile court determinations was to obtain relief from parental abuse, neglect, abandonment, or a similar basis under State law. *See* new 8 CFR 204.11(b)(5). Where USCIS has evidence of a State-recognized common law marriage, it will adjudicate the SIJ petition consistently with the eligibility requirements of the final rule, which maintains the long-standing position that a petitioner for SIJ classification must be unmarried at the time of filing and adjudication. *See* new 8 CFR 204.11(b)(2). However, civil unions are not recognized by USCIS as legal marriages for immigration purposes.

Comment: Four commenters requested that DHS remove the requirement that a petitioner remain unmarried at the time of adjudication. Commenters noted that TVPRA 2008 prohibits denial of a petition based on age as long as the conditions were met at the time the petition was filed. The commenters suggest that similar protections should be provided in regard to unmarried status, because the policy behind the TVPRA 2008 protection was to protect at-risk child victims of abuse. Other commenters discussed the effect of marriage on a petitioner's status as a dependent child in response to the preamble to the NPRM, which stated that ''[m]arriage alters the dependent relationship with the juvenile court and emancipates the child.'' 76 FR 54980. One commenter noted that to the extent that marital status may affect the dependency status of the petitioner, it is unnecessary to require unmarried status through adjudication since the proposed rule requires dependency at the time of adjudication. Another commenter said that while marriage in most jurisdictions changes whether someone is ''dependent'' or not, USCIS should acknowledge that some jurisdictions may make an exception where it is in a child's best interests.

Response: As explained in the proposed rule, under the previous regulations at 8 CFR 204.11(c)(2), a juvenile must remain unmarried both at the time the SIJ petition is filed and through adjudication in order to qualify for SIJ classification. No legislative changes or intervening facts have caused USCIS to alter this provision. This interpretation is consistent with Congress' use of the term ''child'' in the ''Transition Rule'' provision at section 235(d)(6) of TVPRA 2008. INA section 101(b)(1), 8 U.S.C. 1101(b)(1), defines a ''child'' as under 21 years of age and unmarried. In section 235(d)(6) of TVPRA 2008, Congress linked the age-out protection specifically to age by providing that SIJ classification may not be denied ''based on age.'' TVPRA 2008 does not link age out protection to marital status. Thus, Congress required that the petitioner be under the age of 21 only at the time of filing, but did not intend a similar protection as to marital status. Further, 8 CFR 103.2(b)(1) states that ''[a]n applicant or petitioner must establish that he or she is eligible for the requested benefit at the time of filing the benefit request and must continue to be eligible through adjudication.'' Therefore, DHS will maintain its long-standing regulatory requirements, consistent with the definition of ''child'' in the INA, that a petitioner be

unmarried at time of filing the SIJ petition and at time of adjudication. New 8 CFR 204.11(b)(2).

3. Physical Presence in the United States

Comment: One commenter recommended that DHS interpret the requirement for a petitioner's physical presence in the United States as either physical or constructive presence. The commenter stated that using the word ''physically'' to modify the word ''present'' impermissibly narrows the statute and the rule should instead mirror the text of the statute, which provides that an SIJ petitioner is one who is ''present in the United States.''

Response: DHS disagrees with this interpretation. The statutory language at INA section 101(a)(27)(J)(i) requires that petitioners be subject to determinations from a juvenile court located in the United States, indicating that Congress intended that the petitioner be physically present to be eligible for a grant of SIJ classification. It has therefore been DHS's longstanding interpretation that physical presence in the United States is required for USCIS to approve the petition for SIJ classification, and no facts or circumstances have come to our attention that would justify changing that interpretation.

4. Juvenile Court Order Determinations

(a) Dependency or Custody

Comment: Fourteen commenters thought that the proposed rule was not inclusive enough of the various types of placements by a juvenile court that could lead to eligibility for SIJ classification. These commenters want DHS to clarify that commitment to or placement under the custody of an individual could include, but is not limited to, adoption and guardianship. Another commenter requested that DHS clarify that guardianship or adoption standing alone is sufficient for SIJ classification, without being preceded by a dependency, commitment, or custody order. Several of these commenters asked DHS to clarify that a court-ordered placement with a non-offending parent or a foster home could qualify. One commenter requested that DHS clarify the types of State court proceedings that may qualify, including divorce, custody, guardianship, dependency, adoption, child support, protection orders, parentage, paternity, termination of parental rights, declaratory judgments, domestication of a foreign order, or delinquency. Another commenter said that they were concerned that USCIS is interpreting dependency to exclude children who are in the care and custody of the U.S. Department of Health and Human Services, Office of Refugee Resettlement (ORR).

Response: The plain language of INA section 101(a)(27)(J)(i) is disjunctive, requiring a petitioner to establish that they have either ''been declared dependent on a juvenile court . . . *or* . . . such a court has legally committed [them] to, or placed [them] under the custody of, an agency or department of a State, or an individual or entity appointed by a State or juvenile court''. INA section 101(a)(27)(J)(i), 8 U.S.C. 1101(a)(27)(J)(i). The final rule clarifies that SIJ classification is available to petitioners for whom the juvenile court provides or recognizes relief from parental abuse, neglect, abandonment, or a similar basis under State law, which may include the court-ordered custodial placement, or the court-ordered dependency on the court for the provision of child welfare services and/or other court-ordered or court-recognized protective remedial relief. New 8 CFR 204.11(d)(5)(ii)(A) and (B). DHS will not include a full list of examples of qualifying placements in this rule to avoid confusion that qualifying placements are limited to those listed. However, in response to commenters' request that USCIS clarify whether adoption or guardianship standing alone may qualify, USCIS notes that a judicial determination from a juvenile court of adoption or guardianship would generally be a sufficient custodial and/or dependency determination for SIJ eligibility. In addition, juvenile court-ordered placement with a non-offending relative or foster home would also generally qualify as a judicial determination related to the petitioner's custody and/or dependency for SIJ eligibility.

In response to a commenter's concern that USCIS is interpreting dependency to exclude children who are in the care and custody of ORR, USCIS recognizes that placement in federal custody with ORR also affords protection as an unaccompanied child pursuant to Federal law and obviates a State juvenile court's need to provide a petitioner with additional relief from parental maltreatment under State law. *See generally* Homeland Security Act of 2002, Public Law 107–296, 462(b)(1), 116 Stat. 2135, 2203 (2002) (providing that ORR shall be responsible for ''coordinating and implementing the placement and care of unaccompanied alien children in Federal custody by reason of their immigration status. . . .''). Such relief qualifies as relief in connection with a juvenile court's dependency determination. In this final rule, USCIS is clarifying that the relief qualifies so long as the record shows that the juvenile court was aware that the petitioner was residing in ORR custody at the time the order was issued. *See* new 8 CFR 204.11(d)(5)(ii)(B). For example, if the order states that the petitioner is in ORR custody, or the underlying documents submitted to the juvenile court establish the juvenile's placement in ORR custody, that would generally be sufficient evidence to demonstrate that the court was aware that the petitioner was residing in ORR custody. USCIS is making this clarification to ensure that those in ORR custody are not inadvertently excluded from SIJ classification because of the requirement that the juvenile court recognize or grant the relief.

Comment: Several commenters requested further clarification on the definition of dependency. One commenter requested that DHS explain whether dependency includes temporary custody orders. Another commenter stated that the regulations should retain the definition of dependency contained in the previous 8 CFR 204.11(c)(3), which states that a petitioner should establish that they have been ''declared dependent upon a juvenile court located in the United States in accordance with state law governing such declarations of dependency.'' This commenter noted that whether a juvenile is dependent on the juvenile court is within the purview of the juvenile court and not USCIS.

Response: DHS recognizes that there is no uniform definition for ''dependency,'' and the final rule continues to give deference to State courts on their determinations of custody or dependency under State law. DHS agrees with the commenter that the dependency determination is within the jurisdiction of the juvenile court. Thus, the final rule requires the juvenile court to have made a judicial determination ''related to the petitioner's custodial placement or dependency in accordance with State law governing such determinations.'' New 8 CFR 204.11(c)(1).

(b) Parental Reunification Determination

DHS received twenty-two comments on various aspects of the parental reunification determination. DHS reaffirms that the juvenile court must make this determination based on applicable State laws. Nothing in this rule should be construed as changing the standards that State courts use for making family reunification determinations, such as evidentiary

standards, notice to parents, family integrity, parental rights, and due process. DHS further notes that definitions of concepts such as abuse, neglect, or abandonment may vary from State to State. For example, it is a matter of State law to determine if a parent's actions or omissions are so severe that even with services or intervention, the child cannot be reunified with that parent.

Comment: Several commenters requested that the final rule formally abandon USCIS' requirement that in order to make a qualifying parental reunification determination, the juvenile court must have jurisdiction to place the juvenile in the custody of the unfit parent(s). Another commenter requested that DHS explain what constitutes a qualifying reunification determination when a juvenile court does not make an explicit finding and grants the offending parent noncustodial rights. Seven commenters requested clarification that termination of parental rights is not a prerequisite for SIJ classification. One commenter requested that DHS remove from the proposed rule any discussion of the requirement that a juvenile court order contain a determination that the petitioner is eligible for long-term foster care due to abuse, neglect, or abandonment.

Response: Consistent with longstanding practice and policy, DHS agrees that termination of parental rights is not required for SIJ eligibility and has incorporated this clarification in the final rule. New 8 CFR 204.11(c)(1)(ii). The idea that children should not grow up in the foster care system has led to changes in Federal law, such as the Adoption and Safe Families Act. Adoption and Safe Families Act of 1997, Public Law 105–89 (Nov. 19, 1997). The SIJ program has evolved along with child welfare law to include children for whom reunification with one or both parents is not viable because of abuse, neglect, abandonment, or a similar basis under State law. INA section 101(a)(27)(J)(i) previously required a State court determination of eligibility for long-term foster care due to abuse, neglect, or abandonment; however, the statute was modified by TVPRA 2008 to reflect this shift away from long-term foster care as a permanent option for children in need of protection from parental maltreatment. Accordingly, references to ''foster care'' were removed from the NPRM and have been removed from the final rule.

While there is no longer a requirement that petitioners be found eligible for long-term foster care, nonviability of parental reunification is still required. However, DHS no longer requires[7] that the juvenile court had jurisdiction to place the juvenile in the custody of the unfit parent(s) in order to make a qualifying determination regarding the viability of parental reunification; therefore, this final rule does not include such a requirement. *See, e.g., R.F.M.* v. *Nielsen,* 365 F. Supp. 3d 350 (S.D.N.Y. 2019); *J.L., et al.* v. *Cissna,* 341 F. Supp. 3d 1048 (N.D. Cal. 2018); *Moreno Galvez* v. *Cuccinelli,* 387 F. Supp. 3d 1208 (W.D. Wash. 2019); *W.A.O.* v. *Cuccinelli,* Civil Action No. 2:19–cv–11696, 2019 U.S. Dist. LEXIS 136045 (D.N.J. July 3, 2019). DHS further acknowledges that even while it was in effect, the reunification authority requirement should never have applied to petitioners who had juvenile-court orders entered pursuant to Section 300 of the California Welfare and Institutions Code, because California courts generally have continuing jurisdiction over juveniles even after they turn 18. *See,* Cal. Welf. & Inst. Code § 303 (which provides that juvenile courts ''may retain jurisdiction over any person who is found to be a ward or a dependent child of the juvenile court until the ward or dependent child attains 21 years of age''). These juvenile courts have jurisdiction to issue findings regarding abuse, neglect, or abandonment, and based on these findings, ''adjudge that person to be a dependent child of the court.'' *See* Cal. Welf. & Inst. Code § 300.

Where a juvenile court has intervened through, for example, the removal of a child from a home because of parental maltreatment, such intervention may establish that the juvenile court determined that parental reunification is not viable, even if the court order does not explicitly reference that determination. However, the petitioner must establish that the juvenile court's actions resulted from the court's determination under State law that reunification with their parent(s) was not viable due to parental maltreatment. *See* new 8 CFR 204.11(c)(1)(ii).

Comment: Several commenters requested that DHS clarify that petitioners are eligible for SIJ classification when the juvenile court determines that parental reunification with only one parent is not viable. Two commenters further asked DHS to include language that the viability of reunification applies equally whether the parent is a birth parent or an adoptive parent.

Response: The ability of a State court to make a ''one parent'' parental reunification determination is a matter of State law and depends on the individual circumstances of the case. Nothing in this rule should be construed as changing how juvenile courts determine under State law the viability of parental reunification. In the event that a juvenile court determines that it needs to intervene to protect a child from one parent's abuse, neglect, abandonment, or a similar basis under State law, that court's determination may fulfill the parental reunification requirement. Similarly, the ability of a court to exercise its authority to place a child in the custody of a non-offending parent is also a matter of State law. Therefore, if reunification with only one of the petitioner's parents is not viable, the petitioner may be eligible for SIJ classification. DHS, however, declines to incorporate the request that the reunification determination applies to both birth parents and adoptive parents because the parental reunification determination must be made under State law, and it is ultimately a matter of State law who constitutes a legal parent. In other words, the nonviability of parental reunification determination must be based upon a parent who the State court considers the child's legal parent under State law.

Comment: DHS also received several comments regarding the definitions of abuse, neglect, and abandonment as they relate to the parental reunification determination. One commenter stated that the viability of parental reunification with one or both of the petitioner's parents due to abuse, neglect, abandonment, or a similar basis under State law must be determined by a juvenile court based on applicable State law. Another commenter requested that DHS incorporate language from the SIJ section of the USCIS Policy Manual stating that ''USCIS generally defers to the court on matters of [S]tate law and does not go behind the juvenile court order to reweigh evidence and make independent determinations about . . . abuse, neglect, abandonment, or a similar basis under [S]tate law.''[8]

Other commenters recommended that DHS define or categorize the terms ''abuse,'' ''neglect,'' and ''abandonment.'' One commenter recommended that DHS define the terms ''abuse,'' ''neglect,'' and ''abandonment,'' to allow for a

[7] *See also* USCIS, ''Policy Alert: Special Immigrant Juvenile Classification,'' Nov. 19, 2019, available at *https://www.uscis.gov/sites/default/files/policymanual/updates/20191119-SIJ.pdf.*

[8] USCIS Policy Manual, Volume 6, Immigrants, Part J, Special Immigrant Juveniles, Chapter 2, Eligibility Requirements [6 USCIS–PM J.2], available at *https://www.uscis.gov/policy-manual/volume-6-part-j-chapter-2.*

consistent application of the law. A second commenter suggested that DHS implement a standardized process for the categorization of the findings of State juvenile courts into Federal categories for abuse, neglect, and abandonment to ensure uniformity in DHS's determination of whether a request for SIJ classification is bona fide. This commenter suggested adopting a version of the modified categorical approach used to determine whether a criminal conviction has immigration consequences.

Response: Whether a State court order submitted to DHS establishes a petitioner's eligibility for SIJ classification is a question of Federal law and lies within the sole jurisdiction of DHS. *See Arizona* v. *United States,* 567 U.S. 387, 394 (2012) (''The Government of the United States has broad, undoubted power over the subject of immigration and the status of aliens.''); *see also Budhathoki* v. *Nielsen,* 898 F.3d 504, 512 (5th Cir. 2018) (explaining that ''[w]hatever responsibilities are exclusively for the [S]tate court, USCIS must evaluate if the actions of the [S]tate court make the applicant eligible for SIJ [classification]''). However, the plain language of the statute, ''whose reunification with 1 or both of the immigrant's parents is not viable due to abuse, neglect, abandonment, or a similar basis found *under State law,*'' demonstrates that Congress intended the determination that reunification with one or both of the petitioner's parents is not viable due to parental maltreatment to be made by a juvenile court under State law. INA section 101(a)(27)(J)(i), 8 U.S.C. 1101(a)(27)(J)(i) (emphasis added). The relevant SIJ statutory language does not define abuse, neglect, or abandonment. Because the determination of parental maltreatment is a matter of State law, and the definitions of abuse, neglect, and abandonment vary from State to State, creating a standardized process or modified categorical approach would undermine Congress's instruction concerning the State's role in these determinations. For these reasons, DHS generally defers to juvenile courts on matters of State law, though it will evaluate orders for legal sufficiency under the requirements of INA and finds no need to codify additional corresponding language from the USCIS Policy Manual.

Comment: Several commenters focused on the evidentiary requirements for establishing abuse, neglect, abandonment, or a similar basis. One commenter requested that DHS require the juvenile court to check the petitioner's proof of abandonment or abuse to in order to prevent fraud. Another commenter requested that USCIS provide guidance on what information should be contained in a juvenile court order when the court finds that a parent is abusive, including the identity of the parent and details of the abuse. Another commenter stated that juveniles who claim to have been abandoned should provide evidence showing that they have a bona fide relationship to the United States, otherwise they should reunify with relatives living in their home country.

Response: Proving a bona fide relationship to the United States is not an eligibility requirement under INA section 101(a)(27)(J), 8 U.S.C. 1101(a)(27)(J). Further, such a proposal was not a part of the NPRM and thus to codify a United States nexus requirement would be outside the scope of this rulemaking.

As noted earlier in this preamble, because a determination regarding parental maltreatment is a matter of State law, USCIS does not have the authority to mandate that a juvenile court require specific evidence from a petitioner prior to issuing its determinations. USCIS is responsible for detecting and deterring immigration benefit fraud and for determining a petitioner's eligibility for the SIJ classification. It cannot delegate these responsibilities to the States. Moreover, because the determinations of dependency, custody, and parental maltreatment are a matter of State law, USCIS cannot require State juvenile courts to act as an immigration gatekeeper or to undertake fraud investigations in connection with dependency or custody proceedings. USCIS cannot therefore require juvenile courts to take specific actions to verify that a petitioner has not reunified with his or her parent(s) or otherwise require juvenile courts to adopt specific procedures to verify or investigate parental maltreatment. However, USCIS will not grant its consent if the petitioner fails to demonstrate that a primary reason the juvenile court determinations were sought was to obtain relief from abuse, abandonment, neglect, or a similar basis under State law. *See* new 8 CFR 204.11(b)(5).

(c) Determination of Best Interest

Comment: DHS received three comments in relation to the requirement that juvenile court judges make best interest determinations under relevant State law. Proposed 8 CFR 204.11(b)(1)(vi), 76 FR 54985. One commenter expressed general support for the requirement. Another commenter stated that the final rule should not require that the juvenile court make a determination about a placement in the petitioner's or their parent(s)' country of nationality or last habitual residence. One commenter expressed opposition to the best interest requirement in the proposed rule, stating that the language of the INA provision notably does not include any requirement that the best interest determination be made in State, as opposed to Federal, judicial or administrative proceedings. This commenter suggested that the final rule should be amended to provide that under 8 U.S.C. 1101(a)(27)(J)(ii), repatriation determinations are made by USCIS, as part of its statutory consent function.

Response: The best interest determination is one of the key determinations for establishing eligibility for SIJ classification and the only one that has not changed throughout the history of the SIJ program. Since the inception of the SIJ program, it has consistently been the expressed intent of Congress to reserve this benefit for children for whom it has been determined that it would not be in their best interest to return to their or their parent(s)' home countries. The prior regulation interpreted the best interest determination as requiring a petitioner to have ''been the subject of judicial proceedings or administrative proceedings authorized or recognized by the juvenile court in which it has been determined that it would not be in the alien's best interest to be returned to the country of nationality or last habitual residence of the beneficiary or his or her parent or parents.'' Previous 8 CFR 204.11(c)(6). In TVPRA 2008, Congress did not alter the best interest determination, indicating that it intended to retain the agency's long-standing requirement that the best interest determination must be made in either judicial or administrative proceedings by a court or agency recognized by the juvenile court and authorized by law to make such decisions. New 8 CFR 204.11(c)(2)(i). The best interest determination is therefore not a removal determination to repatriate a child (a determination within the purview of Federal immigration law), rather, it is a determination made by a State court or relevant administrative body, such as a State child welfare agency, regarding the best interest of the child. The preamble to the 1993 SIJ final rule explained that ''the Service believes that the decision regarding the best interest of the beneficiary should be made by the juvenile court or the social service

agency officials recognized by the juvenile court, not by the immigration judge or other immigration officials.'' 58 FR 42848.

While the standards for making best interest determinations may vary from State to State, best interest determinations generally consist of the deliberation that courts and administrative bodies undertake under State law when deciding what type of services, actions, and orders will best serve a child, as well as who is best suited to take care of a child. Best interest determinations generally consider a number of factors related to the circumstances of the child and the parent or caregiver, with the child's safety and well-being the paramount concerns. HHS, Administration for Children and Families, Child Welfare Information Gateway, ''Determining the Best Interests of the Child,'' 2016, available at *https://www.childwelfare.gov/topics/systemwide/laws-policies/statutes/best-interest/*. The final rule clarifies that it does not alter any obligations juvenile courts may have under State child welfare law when making best interest determinations. New 8 CFR 204.11(c)(2)(ii).

DHS agrees that a juvenile court or administrative body may not be able to make a placement determination in a foreign county. However, DHS has long held the interpretation that a determination that a particular custodial placement is the best alternative available to the petitioner in the United States does not necessarily establish that being returned to the petitioner's (or petitioner's parents') country of nationality or last habitual residence would not be in the child's best interest. *See* 58 FR 42848. The best interest determination must be made based on the individual circumstances of the petitioner, and DHS will not accept conclusions that simply mirror statutory language in or cite to INA section 101(a)(27)(J)(ii), 8 U.S.C. 1101(a)(27)(J)(ii). The final rule requires evidence of the factual basis for the best interest determination as part of the evidentiary requirement for DHS consent. *See* new 8 CFR 204.11(d)(5)(i).

5. Qualifying Juvenile Court Orders

DHS received numerous comments regarding the proposed requirement that the juvenile court order be in effect at the time of filing and continue through the time of adjudication of the SIJ petition, with limited exceptions provided for by the proposed rule. The majority of commenters opposed the requirement that the juvenile court order be in effect at the time of filing and/or adjudication. Other commenters focused on the exceptions to this requirement.

(a) Validity at Time of Filing and Adjudication

Comment: A number of commenters asked DHS to revisit its position of requiring the juvenile court order to be in effect at the time of filing the SIJ petition and continue through the time of adjudication. Several of the commenters noted that the statute uses past tense when referring to the dependency and custody determinations. Two commenters expressed support for retaining this requirement, with one commenter stating that it ensures that the request for SIJ classification is bona fide, and another commenter stating that the juvenile court order is a filter that makes sure that the benefit is reserved for children in need of special treatment. Another commenter suggested that if DHS is retaining this requirement, the language of the proposed rule should be revised to ''such dependency, commitment, or custody must be in effect at the time of filing the petition and continue through the time of adjudication of the petition.''

Response: DHS notes that the INA requirement ''has been declared dependent . . . or has [been] legally committed to, or placed under the custody of'' is worded in the present perfect tense. *See* INA section 101(a)(27)(J)(i), 8 U.S.C. 1101(a)(27)(J)(i). U.S. courts have ''frequently looked to Congress' choice of verb tense to ascertain a statute's temporal reach.'' *Carr* v. *United States,* 560 U.S. 438, 448 (2010). The present perfect tense refers to a time in the indefinite past or a past action that continues to the present.[9] *See, e.g., Padilla-Romero* v. *Holder,* 611 F.3d 1011, 1013 (9th Cir. 2010) (explaining that ''[a]s a purely grammatical matter, the use of the present perfect tense 'has been,' read in isolation from the surrounding text of the statute, can connote either an event occurring at an indefinite past time ('she has been to Rome') or continuing to the present ('she has been here for five hours')''). DHS believes the wording of the dependency requirement in the INA is meant to show that the juvenile court has done something in the past, but the focus is on the present time (the adjudication of the SIJ petition by USCIS). For this reason, the final rule requires that the juvenile court order ''must be in effect on the date the petitioner files the petition and continue through the time of adjudication of the petition.'' New 8 CFR 204.11(c)(3)(ii).

Further, longstanding USCIS regulations at 8 CFR 103.2(b)(1), in general, require an applicant or petitioner for any immigration benefit to establish eligibility ''at the time of filing,'' and that eligibility ''must continue'' through adjudication. Additionally, DHS agrees with commenters that this requirement ensures that SIJ classification is provided to those truly in need of the benefit. DHS has therefore modified the regulatory text at new 204.11(c)(3)(ii) to clarify that the juvenile court order must be in effect at the time of filing the petition and remain in effect through adjudication, except where the juvenile court's jurisdiction terminated solely because of petitioner's age or due to the petitioner reaching a child welfare permanency goal, such as adoption. These exceptions are discussed further elsewhere in this section of the preamble.

Comment: DHS received numerous comments about how the requirement that the juvenile court order be in effect at the time of filing and adjudication applies to petitioners who relocate to another State. One commenter strongly objected to the proposed rule to the extent that it presumed that SIJ eligibility would continue even if the petitioner moved out of State. This commenter requested that DHS only recognize when a petitioner moves to another jurisdiction under the custody of a custodian appointed by the juvenile court, or when a petitioner in the custody of an institution is moved by the juvenile court to another jurisdiction.

Other commenters indicated that requiring a new court order for petitioners that relocate to a new State or juvenile court jurisdiction would be overly burdensome. Several commenters stated that the requirement to obtain a new State court order is inconsistent with other binding Federal statutes, such as the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) and the Interstate Compact on the Placement of Children (ICPC). Those commenters said that the UCCJEA and ICPC specifically prescribe a process by which transfer between States is obtained and the initial State typically retains jurisdiction of the matter and the juvenile. Several commenters also expressed concerns that this requirement may disproportionately affect petitioners in the custody of ORR of HHS. Another commenter stated that it would create additional hurdles for those seeking Federal long-term foster

[9] *Merriam-Webster.com,* ''present perfect,'' *https://www.merriam-webster.com/dictionary/present%20perfect* (last visited Aug. 18, 2021).

care through the Unaccompanied Refugee Minor (URM) program.

Response: DHS does not wish to place an extra burden on petitioners who may be moved between ORR facilities or to court-appointed custodians in another jurisdiction, or to those seeking long-term foster care through the URM program. Since the time of the NPRM, USCIS has issued policy guidance that clarifies that a juvenile court order does not necessarily terminate because of a petitioner's move to another court's jurisdiction and is maintaining this policy, regardless of this final rule.[10] If the original order is terminated due to the relocation of the child, but another order is issued in a new jurisdiction, USCIS will consider the dependency or custody to have continued through the time of adjudication of the SIJ petition, even if there is a lapse between court orders.

As discussed previously, absent any clear statutory authority, DHS applies the general rule that ''[a]n applicant or petitioner must establish that he or she is eligible for the requested benefit at the time of filing the benefit request and must continue to be eligible through adjudication.'' 8 CFR 103.2(b)(1). DHS will retain the requirement that the juvenile court order be in effect at the time of filing the SIJ petition and continue through the time of adjudication of the SIJ petition, and implements this provision at 8 CFR 204.11(c)(3)(ii).

(b) Exceptions to the Requirement That a Juvenile Court Order Be Valid at the Time of Filing and Adjudication

Comment: Several commenters recommended specific exceptions to the requirement that the juvenile court order be valid at the time of filing and adjudication of the SIJ petition. The commenters requested that DHS take into account the fact that a court may terminate its jurisdiction over a child if such child finds a permanent placement, such as adoption or legal permanent guardianship. The commenters were concerned that if the court terminated its jurisdiction due to the child being placed in permanent guardianship or adoptive placement that the child would lose eligibility for SIJ classification. One commenter stated that a child who is returned to one parent is usually not subject to continuing court supervision. Another commenter stated that it would be contrary to the statute to deny SIJ classification to children who have achieved a permanency option in juvenile court merely because the juvenile court process reached its conclusion and secured a safe and permanent solution for the child.

Response: DHS agrees that an individual adopted, placed in guardianship, or another type of permanent placement may remain eligible for SIJ classification. The previous regulation interpreted the ''eligible . . . for long-term foster care'' requirement generally to require an individual to remain in foster care until reaching the age of majority, but acknowledged that this did not apply if ''the child is adopted or placed in a guardianship situation.'' Previous 8 CFR 204.11(a). In the proposed rule, DHS did not propose to alter this position. DHS will follow this long-standing position and expand it to include other types of permanent placements, such as custody orders. DHS is clarifying this position at new 8 CFR 204.11(c)(3)(ii)(A). The final rule states that the juvenile court order must be in effect on the date the petitioner files the petition and continue through the time of adjudication, except when the juvenile court's jurisdiction terminated solely because the petitioner was adopted, placed in a permanent guardianship, or another permanency goal was reached. *Id.*

Comment: In the NPRM, DHS proposed an exception to the requirement that the juvenile court order continue through the time of adjudication for petitioners whose juvenile court orders terminated solely due to age *after* filing the SIJ petition. Proposed 8 CFR 204.11(b)(1)(iv), 76 FR 54985. Some commenters asked DHS to allow individuals to file if they are under 21 years of age and had a juvenile court order even if the order has lapsed *prior* to filing the SIJ petition. These commenters noted that the INA and TVPRA 2008 only require the petitioner to be under 21 years of age at the time of filing. Other commenters supported extending eligibility for petitioners who may age out of the juvenile court's jurisdiction due to relocation to another State.

Response: After DHS published the 2011 NPRM, the government reached a stipulation agreement in *Perez-Olano, et al.* v. *Holder, et al.,* which contains a provision that a petitioner whose juvenile court order terminated solely due to age *prior* to filing the SIJ petition remains eligible. *Perez-Olano, et al.* v. *Holder, et al.,* Case No. CV 05–3604 (C.D. Cal. 2015). In accordance with the court agreement and in response to public comments, which DHS agrees reflect a legally permissible interpretation, DHS now codifies the exception to the requirement that the juvenile court order be valid at the time of filing and adjudication for petitioners who no longer have a valid juvenile court order either prior to or subsequent to filing the SIJ petition because of the petitioner's age, at new 8 CFR 204.11(c)(3)(ii)(B). In response to comments, this exception also covers the situation of a petitioner who may age out of the juvenile court's jurisdiction due to relocation to another State.

E. Evidence

1. Petition Requirements

A petitioner must submit a complete Form I–360, Petition for Amerasian, Widow(er), or Special Immigrant, in accordance with the form instructions. DHS has amended the form consistent with the changes made in this final rule. The final rule also removes the form number from the regulatory text. New 8 CFR 204.11. Prescribing a specific form number to be filed for a certain benefit in the Code of Federal Regulations (CFR) is generally not necessary, and mandating specific form numbers reduces USCIS' ability to modify or modernize its business processes to address changing needs.

2. Age

Comment: Ten commenters expressed concern that the list of documents in the proposed rule that may demonstrate proof of age was restrictive. Commenters discussed the challenges that abused, neglected, or abandoned children may face in obtaining proof of their age and birth from their abusive parents. These commenters suggested adding alternate documentation of proof of age that would be acceptable, and expressly indicating that secondary evidence may be provided as is allowed for other types of immigration petitions.

Response: DHS agrees that some vulnerable children may face challenges in obtaining documentation of their age. DHS regulations on the provision of secondary evidence at 8 CFR 103.2(b)(2)(i) apply to SIJ petitioners, and DHS did not propose to alter this in the proposed rule. The previous regulation interpreted the proof of age requirement for SIJ petitioners to include evidence in the form of ''a birth certificate, passport, official foreign identity document issued by a foreign government, such as a Cartilla or a Cedula, or other document which in the discretion of the director establishes the beneficiary's age.'' Previous 8 CFR 204.11(d)(1), 58 FR 42850. DHS will follow its long-standing position of

[10] USCIS Policy Manual, Volume 6, Immigrants, Part J, Special Immigrant Juveniles, Chapter 2, Eligibility Requirements [6 USCIS–PM J.2], available at *https://www.uscis.gov/policy-manual/volume-6-part-j-chapter-2.*

allowing official government-issued identification or secondary evidence, and we have added clarifying language at new 8 CFR 204.11(d)(2).

Comment: Two commenters requested that USCIS recognize that SIJ petitioners may not have government-issued identification to present at the biometrics appointment. Another commenter requested that DHS remove all references to biometrics in the regulation.

Response: DHS appreciates the intention of these comments; however, it has acted to remove from regulations all unnecessary procedural instructions and responsibilities, such as acceptable documents for office visits. In addition, the proposed rule only referenced biometrics in the preamble and not in the regulatory text itself, which is consistent with the final rule as well. Therefore, DHS did not revise the regulation in response to the commenters' requests and biometrics submission requirements for SIJ petitioners remain the same.

Comment: One commenter said that in addition to documentary evidence of the petitioner's age, USCIS should collect DNA samples as part of its biodata procedures, or else confirm that a sample has already been collected and added to the Combined DNA Index System (CODIS) database of the Federal Bureau of Investigation (FBI). The commenter asserts that the juvenile's age, identity, and any prior contacts with law enforcement agencies can be more accurately and expeditiously verified by USCIS using the CODIS database.

Response: DHS appreciates the comment, but DNA collection is outside of the scope of this rulemaking. DHS did not propose to require SIJ petitioners to submit DNA in the proposed rule, and it is not a subject on which the public was requested to comment. Therefore, DHS is unable to incorporate the suggestions of the commenter.

3. Similar Basis

INA section 101(a)(27)(J)(i), 8 U.S.C. 1101(a)(27)(J)(i), provides that a petitioner must establish that their reunification with one or both parents is not viable due to ''abuse, neglect, abandonment, or a *similar basis* found under State law'' (emphasis added). When a juvenile court determines parental reunification is not viable due to a basis similar to abuse, neglect, or abandonment, the petitioner must provide evidence of how the basis is legally similar to abuse, neglect, or abandonment under State law. New 8 CFR 204.11(d)(4). The language of the order may vary based on individual State child welfare law due to variations in terminology and local State practice in making child welfare decisions.

Comment: A number of commenters said that petitioners should not have to demonstrate to USCIS that similar basis determinations are equivalent concepts. These commenters requested that the evidentiary standard be modified to reflect that the similar basis requirement is met where the court has authority to take jurisdiction over the child. Commenters also stated that USCIS should defer to juvenile court determinations regarding what constitutes a similar basis under State law. Many of the commenters expressed concerns that the requirement in the proposed rule poses an undue burden on petitioners.

Response: The requirement to demonstrate that a similar basis determination is legally analogous to abuse, neglect, or abandonment under State law is statutory and thus DHS does not have authority to modify it. INA section 101(a)(27)(J)(i), 8 U.S.C. 1101(a)(27)(J)(i) (''and whose reunification with 1 or both of the immigrant's parents is not viable due to abuse, neglect, abandonment, or a similar basis found under State law''). DHS disagrees that an assumption can be made that a basis is legally similar to abuse, neglect, or abandonment just because a juvenile court took jurisdiction over the petitioner. The final rule definition of ''juvenile court'' encompasses a wide variety of State courts, and such courts may take jurisdiction over the case of a juvenile for a variety of reasons that are not related to parental maltreatment.

In the preamble to the proposed rule, DHS explained that ''[i]f a juvenile court order includes a finding that reunification with one or both parents is not viable [due to a similar basis] under State law, the petitioner must establish that this State law basis is similar to a finding of abuse, neglect, or abandonment.'' 76 FR 54981. The preamble further stated that ''[t]he nature and elements of the State law must be similar to the nature and elements of abuse, abandonment, or neglect.'' *Id.* The preamble provided an example under Connecticut law of an ''uncared for'' child and explained that ''uncared for'' may be similar to abuse, abandonment, or neglect, because children found ''uncared for'' are equally entitled to juvenile court intervention and protection. *Id.* The preamble gave examples of additional evidence a petitioner could submit to establish the basis for a juvenile court's finding that reunification is not viable due to a similar basis found under State law; those examples focused on the factual basis for the juvenile court's parental reunification determination. *Id.*

In response to comments requesting further clarification and expressing concern that petitioners would face an undue burden by having to demonstrate legal equivalency in order to establish that the ground is similar to abuse, neglect, or abandonment, DHS has further clarified how petitioners can meet the similar basis requirement at new 8 CFR 204.11(d)(4)(i) and (ii). Evidence demonstrating that this requirement is met includes options that would not place additional burden on the petitioner, such as including the juvenile court's determination as to how the basis is legally similar to abuse, neglect, or abandonment under State law. A petitioner may alternatively submit other evidence that establishes the juvenile court made a judicial determination that the legal basis is similar to abuse, neglect, or abandonment under State law. Such evidence may include the petition for dependency, complaint for custody, or other documents that initiated the juvenile court proceedings. USCIS will not re-adjudicate whether the juvenile court determinations regarding similar basis comply with that State's law, only whether they comply with the requirements of Federal immigration law for SIJ classification. Additionally, USCIS will consider outreach to juvenile courts, social workers, attorneys and other stakeholders to provide technical assistance on the level of detail in juvenile court orders and underlying documents sufficient for SIJ adjudications.

Comment: One commenter stated that the final rule should provide that when a child has been a victim of domestic violence, forced marriage, or child endangerment, the child should be presumed to have suffered sufficient maltreatment equal to or greater than abuse, abandonment, or neglect under State law to qualify for SIJ classification without having to prove that these State laws are similar to abuse, abandonment or neglect.

Response: DHS acknowledges the vulnerable circumstances of children who are victims of domestic violence, forced marriage, or child endangerment. However, the INA requires that a juvenile court determine that reunification is not viable with a child's parent(s) *due to* abuse, neglect, abandonment, or a similar basis under State law. INA section 101(a)(27)(J)(i), 8 U.S.C. 1101(a)(27)(J)(i). Therefore, a juvenile court's determination alone that a child is a victim of domestic violence, forced marriage, or child

endangerment would not be sufficient for SIJ purposes, unless it were accompanied by: a judicial determination that reunification with the child's parent(s) is not viable on that basis; and evidence indicating that the basis constituted a legal basis similar to abuse, neglect, or abandonment under State law. As mentioned previously in this preamble, DHS provides further clarity in this final rule regarding how petitioners can meet the evidentiary requirement of demonstrating that a basis is legally similar to abuse, neglect or abandonment under State law at new 8 CFR 204.11(d)(4)(i) and (ii).

Comment: Four commenters said that the proposed regulations will result in adjudicators wrongly denying SIJ classification to minors in long-term foster care by so narrowly construing what constitutes a similar basis under State law and that greater deference should be granted to the variety of bases for which reunification with a child's parent(s) is determined not viable. One commenter noted that in certain States like Utah, there is no basis for an abandonment determination; rather a child who is abandoned to State custody is determined to be a ''dependent'' child. The commenter requests that such determinations resulting in the child being removed from the parents and placed in State child welfare services be considered a similar basis under State law for SIJ purposes.

Response: DHS appreciates the commenters' concern and acknowledges that there is variation in terminology and local or State practice in making child welfare decisions. That a child has been placed in State child welfare services following a determination that parental reunification is not viable may constitute part of the evidence provided of how a judicial determination is similar to abuse, neglect, or abandonment under State law. As discussed, DHS has added regulatory language in the final rule that helps clarify what evidence must be provided to meet the burden of proof of demonstrating that the legal basis is similar to abuse, neglect, or abandonment under State law. *See* new 8 CFR 204.11(d)(4).

4. Evidentiary Requirements for DHS Consent

DHS proposed that USCIS consent would be provided where the petitioner sought the qualifying juvenile determinations primarily for the purpose of obtaining relief from abuse, neglect, abandonment, or a similar basis under State law, and not primarily for the purpose of obtaining lawful immigration status, and the evidence otherwise demonstrates that there is a bona fide basis for granting SIJ classification. *See* proposed 8 CFR 204.11(c)(1)(i), 76 FR 54985. DHS also proposed that the petitioner must submit specific findings of fact or other relevant evidence establishing the factual basis for the juvenile court's parental reunification determination as evidence that the request is bona fide. *See* proposed 8 CFR 204.11(d)(3)(ii), 76 FR 54985 (discussed in the preamble at 76 FR 54981).

Many commenters discussed the DHS consent function. Some commenters focused on the way DHS interprets the statutory consent function, while others focused on how DHS applies the consent function. The majority of comments opposed either DHS's interpretation or the operation of its consent function in some way. One commenter expressed concerns with how USCIS will determine if a petitioner is primarily seeking lawful immigration status, rather than child protection. This commenter referenced cases of children who may have suffered some abuse, neglect, or abandonment in the past, but where the abuse, neglect, or abandonment does not seem to be the reason they are before the court.

DHS will retain its long-standing position on the interpretation of the DHS consent function as requiring the factual basis for the court's judicial determinations in the final rule. DHS has amended the regulations governing the consent function in response to public comments as described in the following paragraphs.

(a) Background and Legal Interpretation of DHS Consent

Comment: Many commenters opposed DHS's interpretation or application of the statutory consent function. These commenters said it was impermissible for USCIS to ''look behind'' the juvenile court order to determine whether the petitioner established that the order was sought primarily to obtain relief from abuse, neglect, abandonment, or a similar basis under State law. Some commenters suggested that DHS institute a presumption of consent where the petitioner meets all of the eligibility requirements and has a juvenile court order instead of basing its consent determination on whether the primary purpose for seeking the juvenile court order was for relief from parental maltreatment. Another commenter further noted that in finalizing the proposed rule, USCIS also must be guided by a Federal district court's conclusion in *Zabaleta* v. *Nielsen,* 367 F. Supp. 3d 208 (S.D.N.Y. 2019), that the 2008 TVPRA contracted, rather than expanded, DHS's consent function.

Response: As discussed in the proposed rule, DHS's position comes from legislative history on the creation of the consent function. *See* 76 FR 54981. Congress amended the SIJ classification requirements in 1997 to require the express consent of the Attorney General to the dependency order as a precondition to the grant of SIJ classification. *See* CJS 1998 Appropriations Act, Public Law 105–119, 111 Stat. 2440 (Nov. 26, 1997). According to the House Report accompanying the 1997 amendments, the purpose of the amendments was to ''limit the beneficiaries of this provision to those juveniles for whom it was created, namely abandoned, neglected, or abused children.'' H.R. Rep. No. 105–405, at 130 (1997). DHS may consent if it determines ''neither the dependency order nor the administrative or judicial determination of the alien's best interest was sought primarily for the purpose of obtaining the status of an alien lawfully admitted for permanent residence, rather than for the purpose of obtaining relief from abuse or neglect.'' *Id.*

TVPRA 2008 modified the consent function, shifting from express consent to the dependency order to consent to the grant of SIJ classification. *See* TVPRA 2008 section 235(d)(1)(B)(i). Prior to TVPRA 2008, DHS had to make two decisions while adjudicating an SIJ petition: whether to expressly consent to the dependency order and whether to approve the SIJ petition. Now USCIS need only consent to the grant of SIJ classification. The district court in *Zabaleta* v. *Nielsen* stated that with the enactment of TVPRA 2008, ''Congress diluted the agency's consent authority'' when it modified the consent function. 367 F.Supp.3d at 212. The district court reasoned that ''Congress decreased the agency's authority under the consent provision'' when it struck the requirement that USCIS expressly consent to the dependency order. 367 F.Supp.3d at 216. DHS disagrees with this interpretation of the modification of the consent function in TVPRA 2008. While TVPRA 2008 shifted DHS's consent function to the grant of the SIJ classification and removed the requirement that DHS ''expressly'' consent to the dependency order,[11] Congress did not remove the consent function. DHS cannot treat the consent function as absent because Congress did not remove it, and neither can DHS

[11] DHS notes that ''express'' consent to an adjudicative process it controls, unlike express consent to a dependency order issued by a State juvenile court, would result in an adjudicative redundancy.

render it meaningless by applying a presumption that every petition that includes a juvenile court order merits consent.

The determinations made by the juvenile court are related to the dependency or custody, parental reunification, and best interests of the child under relevant State law. USCIS does not go behind the juvenile court order to reweigh evidence and generally defers to the juvenile court on matters of State law. Granting consent based on a petitioner's eligibility for SIJ classification under immigration law is the role of USCIS. It is not the role of the State court to act as an immigration gatekeeper. It is clear that SIJ classification was created, and remains a vital way, to provide immigration relief to children who are victims of parental maltreatment. DHS therefore believes its interpretation of the consent function is a reasoned approach based on the statutory history of SIJ classification and of the consent function.

In response to commenters' concerns regarding how USCIS would weigh the petitioner's motivations, DHS recognizes that a juvenile court order may have multiple purposes and that there may be an immigration motive in seeking the determinations concurrent with, and in some instances, equal in weight to, a desire to obtain relief from parental maltreatment. For example, a child who has been placed in long-term foster care may not become aware of the need to regularize their status until well after the original determinations regarding non-reunification with their parent(s) were made by the juvenile court. At that time, they may separately seek the requisite determinations from the juvenile court related specifically to SIJ eligibility. Although a primary reason for seeking the juvenile court determinations at that point would be for the purpose of obtaining immigration status, it does not negate their underlying motivations for seeking the original relief from parental maltreatment from the court.

In recognition of the fact that SIJ petitioners may have dual or mixed motivations, DHS has modified the consent function by removing the requirement that the petitioner demonstrate that they did not seek the juvenile court's determinations ''primarily for the purpose of obtaining lawful immigration status'' and instead requiring the petitioner to establish that ''*a primary reason* the required juvenile court determinations were sought was to obtain relief from parental abuse, neglect, abandonment, or a similar basis under State law.'' See new 8 CFR 204.11(b)(5) (emphasis added). Establishing that a primary reason the petitioner sought the juvenile court determinations was to obtain relief from parental abuse, neglect, abandonment, or a similar basis under State law is dependent upon the facts and circumstances of each case. USCIS may consider any materially relevant evidence, and DHS has clarified language on the operation of its consent function. *See* new 8 CFR 204.11(b)(5) and (d)(5).

(b) Roles of the Juvenile Court and DHS in Determining Eligibility

Comment: Many commenters expressed concern that as written, the proposed rule instructs DHS to re-adjudicate the determinations made by juvenile courts as part of the consent analysis. One commenter stated that this gives in effect ''appellate review'' of the State court adjudication to USCIS; another said that this provides for the impermissible review and adjudication of State court findings.

Response: The role of DHS is fundamentally different from that of the juvenile court. The juvenile court makes child welfare-related determinations under State law. USCIS determines if a child meets the statutory requirements for SIJ classification under Federal immigration law. A juvenile court determines if it has the jurisdiction and evidence to issue an order under State law for the requested juvenile court action (*e.g.,* appoint a legal guardian). While USCIS defers to the expertise of the juvenile court in making child welfare decisions and does not reweigh the evidence to determine if a child's maltreatment constituted abuse, neglect, abandonment, or a similar basis under State law, it must still determine whether a primary reason the petitioner sought the juvenile court determinations was to obtain relief from abuse, neglect, abandonment, or similar basis found under State law. To make this determination, DHS requires the factual basis for the court's determinations and evidence that the juvenile court granted or recognized relief from parental abuse, neglect, abandonment, or similar basis under State law. *See* new 8 CFR 204.11(d)(5)(i) and (ii). DHS will not re-adjudicate the juvenile court determinations regarding State law, but rather will look to the juvenile court's determinations, the factual bases supporting those determinations, and the relief provided or recognized by the State juvenile court in exercising its consent function. *See* new 8 CFR 204.11(d)(5).

(c) Conflation of Pursuit of a Juvenile Court Order With the Determinations Necessary for SIJ

Comment: Eight commenters thought that the DHS interpretation of the consent function in the proposed rule conflated the pursuit of a juvenile court order with the pursuit of a special order from a judge, including the determinations and factual findings necessary for SIJ classification. The commenters noted that in some jurisdictions, the determinations for dependency and custody are made in separate hearings from the other required determinations for SIJ eligibility. They further noted that in some jurisdictions, an SIJ juvenile court order is a separate, special order issued to facilitate obtaining immigration relief, while determinations relating to custody and placement are done independently. One commenter expressed general support for requiring that USCIS consent to SIJ classification, rather than the juvenile court order.

Response: DHS understands that in some jurisdictions, the court will have a separate hearing and issue a separate order with the necessary determinations for SIJ classification. In order to ensure a clearer understanding, DHS has modified the language of the rule to state that the petitioner must establish that a primary reason they sought the juvenile court's determinations, rather than the order itself, was to obtain relief from abuse, neglect, abandonment, or a similar basis under State law. New 8 CFR 204.11(b)(5).

(d) DHS Consent Process and Procedures

Comment: One commenter said that the requirement of consent by DHS seems wholly unnecessary if, as is stated in the proposed rule, approval of the SIJ petition is considered the granting of consent on behalf of the Secretary of Homeland Security. Other commenters said that the consent provision of the proposed rule essentially instructs USCIS adjudicators to presume fraud and State court incompetence in fact finding in every SIJ case. The commenters further noted that the ''primary purpose'' and ''bona fide'' language in proposed 8 CFR 204.11(c)(1)(i), 76 FR 54985, aims to effectively reinstitute the express consent provision from prior to the changes made by TVPRA 2008 by requiring a review of the evidence in the record for proof of the petitioner's primary motive and a ''bona fide'' basis to grant SIJ classification.

Response: DHS disagrees that the consent provision is unnecessary

because the proposed rule indicated that approval of the SIJ petition is considered the granting of consent on behalf of the Secretary of Homeland Security. The NPRM specifically stated that the ''the approval of a Form I–360 is *evidence* of the Secretary's consent, rather than consent being a precondition of the juvenile court order'' in order to clarify the TVPRA change. 76 FR 54981 (emphasis added). DHS did not conflate consent with approval.

DHS also disagrees that the proposed rule instructs USCIS adjudicators to presume fraud or State court incompetence, or to re-adjudicate the juvenile court determinations or factual findings. The role of the State court and DHS are fundamentally different. While juvenile courts make determinations pursuant to their State law, USCIS must adjudicate petitions for SIJ classification under Federal immigration law, and may grant consent only where the eligibility criteria are met and DHS determines that a primary reason the petitioner sought the required juvenile court determinations was to obtain relief from parental abuse, neglect, abandonment, or a similar basis under State law. *See* new 8 CFR 204.11(b)(5). DHS cannot delegate determinations of eligibility for the SIJ classification nor its consent function to a State court.

As previously noted, DHS will conduct a case-specific adjudication of each petition to ensure that petitioners have met their burden of proving that USCIS consent is warranted. DHS therefore declines to make any change in response to these comments as DHS consent is itself an eligibility requirement pursuant to the statute at INA section 101(a)(27)(J)(iii), 8 U.S.C. 1101(a)(27)(J)(iii).

Comment: Three commenters wrote that DHS should develop a process for internal review if USCIS determines that the juvenile court order was sought primarily to obtain immigration benefits and USCIS would deny consent. These commenters pointed to a USCIS memorandum [12] and stated that it requires supervisory review prior to denying consent or issuing a denial of the SIJ petition. As an alternative to supervisory review, the commenters suggested review at USCIS headquarters.

Response: DHS appreciates commenters' concerns regarding denials. However, DHS will not promulgate an internal review process in the rule that would bind USCIS to an administrative procedure that could restrict resource allocation and become outdated. Supervisory review instructions will be provided in guidance documents if necessary. DHS will consider these comments when drafting such guidance.

Comment: Two commenters requested that USCIS notify the petitioner that a decision to deny consent is appealable to the AAO.

Response: USCIS notifies denied petitioners of the right to appeal the decision to the AAO as required by 8 CFR 103.3(a)(1)(iii)(A) for all appealable decisions. For SIJ petitioners, this includes the ability to appeal the denial of an SIJ petition based on the withholding of DHS consent. DHS is not aware of this requirement not being followed, but to avoid any confusion and in response to comments, the final rule at new 8 CFR 204.11(h) requires notifying petitioners of their right to appeal pursuant to 8 CFR 103.3.

Comment: One commenter said that if consent to SIJ classification is warranted when ''the state court order was sought primarily for the purpose of obtaining relief from abuse, neglect, abandonment or some similar basis under state law,'' then USCIS should clearly list all required initial evidence. The commenter further stated that it would be helpful to have a list of a few examples to clarify what ''additional evidence'' may be required as well.

Response: There are variations in State laws, as well as varying requirements regarding privacy and confidentiality, so there are no specific documents that may or may not fulfill these evidentiary requirements. However, at new 8 CFR 204.11(d)(5)(i)(A) and (B), DHS provided examples of what may constitute relief from parental maltreatment, including ''the court-ordered custodial placement'' or ''the court-ordered dependency on the court for the provision of child welfare services and/or other court-ordered or recognized protective or remedial relief . . .'' to provide further clarification on what evidence may fulfil this requirement. Examples of documents that may be provided as evidence in support of the factual basis for the juvenile court order include: Any supporting documents submitted to the juvenile court; the petition for dependency or complaint for custody or other documents which initiated the juvenile court proceedings; court transcripts; affidavits summarizing the evidence presented to the court and records from the judicial proceedings; and affidavits or records that are consistent with the determinations made by the court.[13]

(e) Burden on the Petitioner

Comment: Many commenters said that the proposed regulations regarding consent imposed too great a burden on petitioners. These commenters asked DHS not to require the petitioner to submit documentation and make arguments in excess of what the statute requires, and many said that DHS should not require findings of fact or additional evidence beyond the determinations in the juvenile court order. Several commenters stated that the DHS interpretation of the consent function and requirement for evidence of the factual basis is burdensome because it requires the petitioner to prove to USCIS what the juvenile court has already determined. Another commenter said that the SIJ statute only requires that SIJ orders contain factual findings, and therefore, USCIS does not need to evaluate the petitioner's intent for initiating dependency court proceedings nor weigh evidence to determine whether it believes the court made proper findings. One commenter wrote that they strongly agree with USCIS that ''the petitioner bears the burden'' of proving that the State court order was not sought primarily for any other reason than obtaining relief from abuse, neglect, abandonment, or some similar basis under State law, with particular scrutiny of petitions whose primary motivation is obtaining an immigration benefit. Another commenter recommended that the final rule incorporate the principles found in the NPRM and the USCIS Policy Manual that juvenile court findings of fact regarding the basis for a determination of abuse, neglect, abandonment, or a similar basis ''are usually sufficient to provide a basis for the Secretary's consent.'' 84 FR 54981; *See also* USCIS Policy Manual, Volume 6, Immigrants, Part J, Special Immigrant Juveniles, Chapter 3, Documentation and Evidence, A, Juvenile Court Order(s) and Administrative Documents, 3, Factual Basis and USCIS Consent [6 USCIS–PM J.3(A.3)], available at *https://www.uscis.gov/policy-manual/volume-6-part-j-chapter-3.*

Response: DHS does not agree that the regulation requiring a factual basis for the juvenile court's determinations poses too great a burden on petitioners. The burden is on the petitioner, as it is

[12] USCIS, ''Memorandum #3—Field Guidance on Special Immigrant Juvenile Status Petitions'' (''Policy Memorandum #3''), May 27, 2004, available at *https://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/Static_Files_Memoranda/Archives%201998-2008/2004/sij_memo_052704.pdf.*

[13] USCIS Policy Manual, Volume 6, Immigrants, Part J, Special Immigrant Juveniles, Chapter 3, Documentation and Evidence [6 USCIS–PM J.3], available at *https://www.uscis.gov/policy-manual/volume-6-part-j-chapter-3.*

for all immigration benefit requests, to establish that they meet eligibility requirements. DHS works to ensure that all SIJ petitions are properly adjudicated under the requirements of the INA, and as noted previously, will conduct case specific adjudication of each petition to ensure that petitioners have met their burden of proving that USCIS consent is warranted. In the majority of cases, the petitioner can meet the burden of showing that a primary purpose for seeking the order was to provide the petitioner relief from parental abuse, neglect, or abandonment, or a similar basis to these grounds simply based on the juvenile court order itself. Orders that include findings of fact in support of the juvenile court's determinations, as well as evidence of court-ordered or recognized relief from parental maltreatment, will usually provide the basis for USCIS consent.

Some juvenile courts only provide a template order that mirrors the statutory language at INA section 101(a)(27)(J) with no information on how the determinations relate to the petitioner under State law. This may not be enough to provide a basis for USCIS to determine whether to grant consent absent supplemental evidence. These cases are highly case specific, and each will be adjudicated on its own merits. In the proposed rule, DHS gave many examples of supplementary information that could be included with the petition, such as juvenile court findings accompanying the custody or dependency order, actual records from the proceedings, or other evidence that summarizes the evidence provided to the court. *See* 76 FR 54981. DHS does not agree that providing supplementary information, such as the examples on these lists, is unduly burdensome. In many cases, most of the information was submitted to the juvenile court by the petitioner, his or her parent(s), advocate, or attorney and is under the control of the petitioner, his or her parent(s), or the attorney or advocate for the child.

DHS also disagrees with commenters who said that DHS is instituting requirements in excess of the statutory requirements, and that the statute only requires factual findings. The statute explicitly requires that DHS consent to the grant of SIJ classification, and for the reasons set forth in the NPRM as well as this final rule, DHS believes its interpretation of consent is reasonable. INA section 101(a)(27)(J)(iii), 8 U.S.C. 1101(a)(27)(J)(iii).

As previously noted, DHS recognizes that a juvenile court order may have multiple purposes and that there may be some immigration motive in seeking the order concurrent with a need to obtain relief from parental maltreatment. However, adjudicators must review the order and any other evidence provided to determine whether or not the petition was bona fide and merits USCIS consent. While adjudicators may not substitute their own judgement for that of the State juvenile court on issues of State law, USCIS must evaluate petitions for legal sufficiency under Federal immigration law.

(f) Privacy Concerns

Comment: Thirty-one commenters had privacy concerns with the process for USCIS consent and the requirement that petitioners provide to USCIS the factual basis for the juvenile court's determinations. Many of these commenters thought that requiring the petitioner to submit additional documents from a court, government agency, or other administrative body, beyond just the juvenile court order, compels the petitioner to present information that is protected under State privacy laws. Several other commenters were concerned with language in the preamble to the proposed rule that would allow officers to obtain records directly from a juvenile court. *See* 76 FR 54982. The commenters wrote that DHS should remove this from the final rule or at least educate officers on applicable privacy laws and instruct officers to follow proper procedures for lawfully obtaining access to the records, which may mean formally petitioning a juvenile court.

Response: DHS agrees that all applicable privacy laws should be followed in the provision of juvenile court records. Nothing in DHS guidance should be construed as requiring the release or obtaining of records in violation of privacy laws, and officers are advised on relevant privacy laws and procedures as they relate to SIJ petitions. As discussed previously, often these records were submitted to the juvenile court by the petitioner, his or her parent(s), attorney, or advocate and the documents are already under the control of the petitioner, his or her parent(s), attorney or advocate for the child. DHS agrees that petitioners and their legal representatives should follow State laws regarding the authorization of release of confidential records.

DHS provided a list of documents in the proposed rule that may assist the petitioner in providing evidence of the factual basis. These documents are intended to be examples of documents that the petitioner can provide. However, it is ultimately up to the petitioner which particular document(s) they choose to provide. DHS will not require a specific form of evidence to prove the factual basis. Requests for additional evidence on SIJ petitions are governed by the same regulations that govern all other immigration petitions. *See* 8 CFR 103.2 and 103.3. USCIS officers generally do not directly request records from any party other than the petitioner and their legal representative in adjudicating SIJ petitions. However, this does not bar USCIS from directly requesting documents as part of a fraud investigation, as permitted by law.

(g) Consent Standards

Comment: Twenty-one commenters wrote that DHS should not equate ''consent'' and ''discretion'' and said that the proposed rule attempted to impermissibly give DHS discretion where the statute only provides for consent. Commenters were concerned that this language would allow USCIS to consider factors that are not related to SIJ eligibility requirements.

Response: The NPRM proposed that DHS would consider both the evidence on the record as well as ''permissible discretionary factors'' (proposed 8 CFR 204.11(c)(1)(i), 76 FR 54985) (''In determining whether to provide consent . . . USCIS will consider, among other permissible discretionary factors, whether the alien has established, based on the evidence of record . . .''). The NPRM also proposed that the ''petitioner has the burden of proof to show that discretion should be exercised in his or her favor.'' *See* proposed 8 CFR 204.11(c)(1)(ii), 76 FR 54985. DHS recognizes that the wording of the regulatory text in the NPRM may have caused some confusion as to how DHS would determine if consent is warranted, and we agree that consent is not a discretionary function. In exercising consent, DHS intends to only consider factors that are relevant to assessing whether a primary reason the petitioner sought the juvenile court's determinations was to obtain relief from parental abuse, neglect, abandonment, or a similar basis under State law. DHS has accordingly refined the language in this final rule and has set parameters for exercising the consent function by codifying its interpretation of consent and the evidence required. Under the consent function, adjudicators must determine that the request for SIJ classification is bona fide. *See* new 8 CFR 204.11(b)(5). DHS requires the petitioner to submit the factual basis for the juvenile court's determinations and evidence the court provided relief from parental maltreatment to demonstrate that the request is bona fide. *See* new 8 CFR 204.11(d)(5)(i) and (ii). DHS will generally consent to the grant of SIJ

classification if the petitioner meets these evidentiary requirements.

The final rule also clarifies DHS's provision to consider the evidence of record when assessing consent by stating that ''USCIS may withhold consent if evidence materially conflicts with the eligibility requirements [for SIJ classification] . . . such that the record reflects that the request for SIJ classification was not bona fide.'' New 8 CFR 204.11(b)(5).

Pursuant to the settlement agreement in *Saravia* v. *Barr,* USCIS will not, however, withhold consent based in whole or in part on the fact that the State court did not consider or sufficiently consider evidence of the petitioner's gang affiliation when deciding whether to issue a predicate order or in making its determination that it was not in the best interest of the child to return to their home country. USCIS also will not use its consent authority to reweigh the evidence that the juvenile court considered when it issued the predicate order,[14] nor will it consider factors without a nexus to the petitioner's motivations for seeking the juvenile court determinations.

(h) Consent and Role of the Child's Parent

Comment: Several commenters disagreed with language in the NPRM preamble that DHS may consider evidence of a parent or custodian's role in arranging for the petitioner to travel to the United States or to petition for SIJ classification as reason to suspect that the juvenile court order was sought primarily to obtain lawful immigration status. *See* 76 FR 54982. One commenter stated that punishing children for their parents' actions ignores the independent right of the child to receive relief, and it contravenes the purpose of the statute to protect vulnerable children. Several commenters said that the parent sending the child to the U.S. may have been to protect the child from the abuse, neglect, or abandonment of the other parent.

Response: It is a matter of State law as to if and how a parent's or custodian's role in arranging travel to the United States impacts a juvenile court's ability to issue a court order and make the required judicial determinations.[15] However, a petitioner must establish by a preponderance of the evidence that a primary reason they sought the juvenile court determinations was to obtain relief from parental maltreatment. *See* new 8 CFR 204.11(b)(5). As discussed, the final rule clarifies that USCIS may withhold consent if evidence materially conflicts with the eligibility requirements for SIJ classification such that the record reflects that the request for SIJ classification was not bona fide. *Id.* This may include situations such as one in which a juvenile court relies upon a petitioner's statement, and/or other evidence in the underlying submission to the juvenile court, that the petitioner has not had contact with a parent in many years to make a determination that reunification with that parent is not viable due to abandonment, but USCIS has evidence that the petitioner was residing with that parent at the time the juvenile court order was issued. Such an inconsistency may show that the required juvenile court determinations were sought primarily to obtain an immigration benefit rather than relief from parental maltreatment. However, evidence that the petitioner sought the juvenile court determinations for both an immigration purpose and for relief from parental maltreatment would not alone result in a material conflict demonstrating that the request for SIJ classification was not bona fide. This reflects DHS' position that SIJ petitioners may have mixed motivations.

5. HHS Consent

Several commenters focused on the requirement of specific consent from HHS, including one commenter who generally supported DHS including specific consent from HHS in the rule. Based on TVPRA 2008 and the *Perez-Olano* Settlement Agreement, the proposed rule stated that an unaccompanied child in the custody of HHS is required to obtain specific consent from HHS to a juvenile court order that determines or alters their custody status or placement prior to filing a petition with USCIS.[16]

Comment: Five commenters thought that the proposed provision regarding juvenile court orders that ''alter'' the individual's custody status or placement went beyond what is required by the INA. INA section 101(a)(27)(J)(iii)(I), 8 U.S.C. 1101(a)(27)(J)(iii)(I), states that ''no juvenile court has jurisdiction to *determine* the custody status or placement of an alien in the custody of the Secretary of [HHS] unless the Secretary of [HHS] specifically consents to such jurisdiction'' (emphasis added).

Response: This regulation implements the limited circumstances under which USCIS requires evidence of HHS consent at new 8 CFR 204.11(d)(6). The language intentionally restricts the pool of children in HHS custody to whom the specific consent requirement applies, as was intended by both TVPRA 2008 and the subsequent *Perez-Olano* Settlement Agreement. *Perez-Olano, et al.* v. *Holder, et al.,* Case No. CV 05–3604 (C.D. Cal. 2010). Although the *Perez-Olano* Settlement Agreement indicated that HHS consent is required only if the juvenile court determines or alters the child's custody status or placement, in the final rule, DHS has removed ''determined'' and included ''altered'' only. New 8 CFR 204.11(d)(6)(ii). The final rule more accurately reflects the limited circumstances under which USCIS requires evidence of HHS consent as discussed at paragraphs 7 and 17 of the *Perez-Olano* Settlement Agreement. The Settlement Agreement clarifies that the HHS consent requirement is limited to where the juvenile court is changing the custodial placement of a petitioner in HHS custody. *See Perez-Olano, et al.* v. *Holder, et al.,* Case No. CV 05–3604 at ¶ 7 and 17 (C.D. Cal. 2010). This codifies and reflects long-standing policy, clarifying that those petitioners in HHS custody who receive juvenile court orders declaring them dependent on the court and restating their placement in ORR custody are not required to obtain HHS consent; only those petitioners in HHS custody who receive orders altering their custodial placements are required to obtain HHS consent.

Comment: Three commenters thought that the rule failed to clarify that a court exercising jurisdiction over a child in HHS custody and issuing an SIJ predicate order does not determine custody status or placement triggering the specific consent requirement. Another commenter thought this language was restrictive, limiting the pool of children in HHS custody to whom the specific consent requirement applies.

Response: DHS agrees that the court's determination of dependency or custody

[14] *Saravia* v. *Barr,* 3:17–cv–03615 (N.D. Cal. Jan. 14, 2021).

[15] The proposed rule cited to *Yeboah* v. *DOJ,* 345 F.3d 216 (3d Cir. 2003), which held, in part, that legacy INS acted within its discretion in considering evidence of the petitioner's relationship with his family and physical and mental condition in deciding whether to deny consent. *Yeboah* addressed the legacy INS's specific consent function for juveniles in INS custody, which has since been amended by the 2008 TVPRA.

[16] TVPRA 2008 vested responsibility for issuing specific consent for unaccompanied children in HHS custody with HHS, rather than DHS. It also simplified the consent language used to refer simply to ''custody'' rather than ''actual or constructive custody'' as the requirement was previously worded after its creation by the 1998 Appropriations Act. The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998 (CJS 1998 Appropriations Act), Public Law 105–119, 111 Stat. 2440 (Nov. 26, 1997).

required for SIJ classification does not necessarily trigger the consent requirement. A child is required to obtain HHS consent only if they are in HHS custody and also want to have a state court, not HHS, decide to move them out of HHS custody or into a placement other than the one designated by HHS. In other words, HHS specific consent is not required if the juvenile court order simply restates the HHS placement. Ultimately, specific consent is a process conducted by HHS, not USCIS, which adjudicates petitions for SIJ classification. For DHS purposes, where HHS specific consent applies, the petitioner should present evidence of a grant by HHS of specific consent.

F. Petition Process

1. Required Evidence

Comment: One commenter said that USCIS should require the petitioner to provide evidence of the residence or location of their parent(s) or legal guardians if present in the United States, and that this information should be provided to the appropriate USCIS or U.S. Immigration and Customs Enforcement (ICE) district office, which should then collect a DNA sample from them. The commenter further asserted that the petition should not be deemed properly filed until this requirement is completed and stated that such a requirement would not require direct contact between a petitioner and alleged abuser.

Response: The commenter's request for additional required evidence and DNA submissions goes beyond the scope of the rulemaking and what is required by statute to implement the SIJ program. Furthermore, DHS is concerned that adding such a requirement may run afoul of the no contact provision prohibiting DHS from compelling petitioners to contact alleged abusers. *See* INA section 287(h), 8 U.S.C. 1357(h); *see also* new 8 CFR 204.11(e). For these reasons, DHS declines to incorporate this recommendation into the final rule.

2. No Contact

The proposed rule implemented the statutory requirement at INA section 287(h), 8 U.S.C. 1357(h), that prohibits USCIS from requiring that the petitioner contact the alleged abuser at any stage of the SIJ petition process. Ten commenters discussed issues relating to this aspect of the rule, seven of whom indicated general support for this provision.

Comment: Two commenters suggested expansions of the no contact provision. These commenters wrote that this protection should be extended to proceedings for other immigration benefits based upon SIJ classification, including LPR status and naturalization. These commenters further suggested that USCIS employees and officers be prohibited from contacting the petitioner's alleged abuser(s) during the same processes.

Response: The statutory protection applies to those seeking SIJ classification and states that such petitioners ''shall not be compelled to contact the alleged abuser (or family member of the alleged abuser) at any stage of applying for special immigrant juvenile status.'' INA section 287(h), 8 U.S.C. 1357(h). DHS has extended this provision to individuals seeking LPR status based upon SIJ classification, at new 8 CFR 245.1(e)(3)(vii), because SIJ classification and SIJ-based adjustment of status have historically been sought concurrently in certain circumstances. DHS appreciates the suggestion to extend this protection to the naturalization phase also; however, DHS proposed no changes to the eligibility and adjudication requirements for naturalization. Thus, that change is beyond the scope of this rulemaking.

With regard to the commenters' suggestion that DHS expand the prohibition against requiring contact with the abusers to DHS employees and officers, such an expansion is not within the scope of the law's prohibition intended to protect petitioners from having to contact their alleged abusers.

Comment: One commenter recommended that DHS modify the proposed regulatory text to mirror the statutory language at INA section 287(h), 8 U.S.C. 1357(h), which also includes individuals who battered, neglected, or abandoned the child in the categories of individuals that petitioners will not be compelled to contact. Another commenter supported expansion of the no contact provision to anyone who has abused the child, not just the abusive parent(s).

Response: DHS agrees with these commenters and has clarified that these prohibitions on compelling contact apply to individuals who abused, neglected, battered, or abandoned the child. *See* new 8 CFR 204.11(e) and 8 CFR 245.1(e)(3)(vii).

Comment: Five commenters suggested that the regulations should stress that evidence of the petitioner's ongoing contact with their parent(s) should not contradict the child's petition for SIJ classification. These commenters suggested that while contact cannot be required, it also cannot be held against the petitioner given the dynamics of abuse.

Response: DHS appreciates these thoughtful comments on the dynamics of relationships between abused children and their alleged abusers. However, DHS will not include information on the dynamics of children and their alleged abusers in regulation. USCIS may provide instructions on such issues in guidance to SIJ petition adjudicators.

Comment: One commenter requested that DHS add a statement that this prohibition on compelling contact with alleged abusers would not affect what juvenile courts do to ensure parental notice of court proceedings.

Response: While DHS agrees that this rule does not apply the no contact provision to juvenile court proceedings, directly advising juvenile courts on how to conduct State court proceedings is beyond the scope of this rulemaking and DHS authority.

3. Interview

Comment: There were a number of comments regarding the section of the proposed rule that provided for interviews of SIJ petitioners at USCIS discretion. *See* proposed 8 CFR 204.11(e), 76 FR 54986. Sixteen of those commenters suggested that USCIS should presumptively waive in-person interviews of SIJ petitioners, and twenty-four commenters indicated that USCIS officers should not ask the petitioner about abuse, neglect, or abandonment. Another commenter said that DHS should remove the clause ''as a matter of discretion'' as the SIJ adjudication is not a discretionary determination. These commenters expressed concerns that such questioning only would redo what the juvenile court has already done, that USCIS officers lack the required training for taking such testimony, and that it can retraumatize children. Several of these commenters recommended that USCIS establish procedures for its staff on how to create a nonthreatening interview environment and ensure that officers have appropriate training on interviewing vulnerable children, and one commenter suggested that DHS incorporate portions of the USCIS Policy Manual on SIJ interviews into the rule.

Response: Regulations on the processing and adjudication of immigration petitions apply to SIJ petitions, including the authority to interview anyone who files an immigration benefit request, at 8 CFR 103.2(b)(9). DHS is not changing the regulations on immigration interviews at 8 CFR 103.2(b)(9) via this rule and retains the discretion to interview an SIJ petitioner and grant or deny the SIJ

petition, consistent with the statute and this final rule. DHS disagrees that its interview process would redo what a juvenile court has already done, or that USCIS officers may ''lack the required training for taking such testimony,'' as DHS assesses whether to grant or deny an immigration benefit. DHS provides child interviewing guidelines to adjudication officers, and notes, as it did in the proposed rule, that USCIS seeks to establish a non-adversarial interview environment. DHS appreciates comments aimed at improving interviews of SIJ petitioners and will consider implementation of these comments through guidance and training.

Comment: While commenters expressed general support for allowing a trusted adult to be present at the interview, twenty-nine commenters expressed concerns with the provision that USCIS may place reasonable limits on the number of persons who may be present at the interview. These commenters suggested that USCIS should not retain the discretion to interview a child alone and cannot separate a petitioner from their attorney or accredited representative. Two commenters further stated that it is inappropriate to limit the child's representation by their attorney to a single statement or written comment in a USCIS interview and requested that proposed 8 CFR 204.11(e)(2), 76 FR 54986, be stricken.

Response: The proposed rule sought to recognize the unique vulnerability of SIJ petitioners by allowing SIJ petitioners to bring a trusted adult to the interview, in addition to the petitioner's attorney or legal representative. DHS did not intend to limit a petitioner's right to have their attorney or accredited representative present at the interview. The limitation on persons present at the interview was aimed at individuals other than the child's attorney or accredited representative. DHS has added clarifying language at new 8 CFR 204.11(f) indicating that USCIS will do nothing to inhibit the representation of a petitioner by an attorney or accredited representative. DHS also has not included the proposed provision regarding the attorney or representative statement in new 8 CFR 204.11(f).

Comment: Eight commenters opposed the provision at proposed 8 CFR 204.11(e)(2), 76 FR 54986, that a trusted adult could present a statement at the interview. These commenters expressed concerns that this would violate due process protections for the petitioner because an adult who is not an attorney or representative is not subject to any ethical rules or disciplinary action should they engage in misconduct. Furthermore, commenters asserted that it may be challenging for adjudicators to discern whether the child genuinely consented to the adult participating in their case, raising potential trafficking and abuse concerns.

Response: In response to comments, DHS removed the provision that the trusted adult can provide a statement at the interview. The removal of this language is not intended to mean that an attorney or accredited representative is not permitted to provide a statement; as addressed previously, DHS does not seek to inhibit the petitioner's representation by their attorney or representative. DHS will explore further clarifying the role of the trusted adult via guidance.

Comment: Eleven commenters said that USCIS should not question a petitioner about their criminal record in connection with the SIJ petition. One commenter requested clarification on what information USCIS looks at in regard to the criminal background of SIJ petitioners and at what phase in the process the inquiry occurs.

Response: The commentary on criminal record was part of the NPRM preamble, and not the proposed regulatory text. DHS agrees that review of the petitioner's criminal record should be conducted in connection with the adjustment of status application. The criminal record will be reviewed at the SIJ petition stage only as it relates to the eligibility requirements for SIJ classification. For example, if USCIS learns that a petitioner found dependent on the court pursuant to youthful offender proceedings was subsequently convicted of a crime as an adult, that element of the criminal record may be relevant to the petitioner's eligibility for the benefit if it results in a termination of the juvenile court dependency prior to the time of filing and/or adjudication. *See* new 8 CFR 204.11 (b)(4) and (c)(3)(ii). DHS applies the regulations at 8 CFR part 245 on the processing and adjudication of immigration applications for SIJ-based adjustment of status applications, including the regulations at 8 CFR part 245.6 on immigration interviews.

4. SIJ Petition Decision Timeframe Requirement

DHS proposed the 180-day timeframe for issuing SIJ petition decisions and explained when the period would start and stop. *See* 8 U.S.C. 1232(d)(2); proposed 8 CFR 204.11(h), 76 FR 54986. DHS noted that the 180-day timeframe relates only to the petition for SIJ classification and not to any concurrently filed, or later filed application for adjustment of status. DHS modeled the starting and pausing of the decision timeframe provisions on similar provisions at 8 CFR 103.2(b)(10)(i). A number of commenters discussed the timeframe for adjudication, with some expressing support for incorporating the 180-day timeframe from TVPRA 2008 and others asking DHS to reconsider whether the framing of the start and stop provisions in the proposed rule are legally permissible.

Comment: Twenty commenters asked DHS to reconsider whether under 8 U.S.C. 1232(d)(2), temporarily pausing or completely restarting the running of the 180-day timeframe is legally permissible. Five of the commenters said that the timeframe should be suspended only, not restarted, for requests for additional evidence or to reschedule an interview. Another five of the commenters thought that a request to bring information to an interview should not pause the running of the 180 days and said that it should be paused only on the date of the interview if the individual fails to present the requested documents, delaying the adjudication.

Response: Despite the confusion indicated by the comments, DHS did not intend to change the regulations at 8 CFR 103.2(b)(10)(i) regarding how the requests for additional or initial evidence or to reschedule an interview impact the timeframe imposed for processing SIJ petitions. DHS will follow the regular practices set out for all immigration petitions in 8 CFR 103.2(b)(10)(i) to ensure regulatory consistency and consistency in agency practice. To avoid confusion, DHS has removed language explaining the 180-day timeframe, pauses, and when it resumes, and refers to the regulations at 8 CFR 103.2(b)(10)(i). *See* new 8 CFR 204.11(g)(1).

In acknowledgement of the permanent injunction issued in *Moreno Galvez* v. *Cuccinelli,* No. 2:19–cv–321–RSL (W.D. Wash. Oct. 5, 2020) (concluding that all adjudications of SIJ petitions based on Washington State court orders must be completed within 180 days), *appeal docketed,* No. C19–0321–RSL (9th Cir. Dec. 4, 2020), DHS will not apply the timeframe for issuing SIJ decisions at new 8 CFR 204.11(g)(1) to SIJ petitions with Washington State orders. DHS retains its interpretation that the timeframe is not absolute, and though the court mandated compliance in Washington state, it acknowledged that:

When determining whether an agency has acted within ''a reasonable time'' for purposes of 5 U.S.C. 555(b), the timeline established by Congress serves as the frame of reference . . . Under governing

case law, that [180 day] deadline is not absolute, but it provides the frame of reference for determining what is reasonable.

Federal courts must ''defer to an agency's construction, even if it differs from what the court believes to be the best interpretation, if the particular statute is within the agency's jurisdiction to administer, the statute is ambiguous on the point at issue, and the agency's construction is reasonable.'' *Nat'l Cable & Telecommunications Ass'n* v. *Brand X Internet Servs.,* 545 U.S. 967, 969 (2005). While the statute states that all petitions for special immigrant juvenile classification under section 101(a)(27)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(J)) shall be adjudicated by the Secretary of Homeland Security not later than 180 days after the date on which the petition is filed, the processing of any immigration benefit request requires the submission and analysis of a substantial amount of information, opportunities for the petitioner to provide additional evidence to establish eligibility, and the vetting of SIJ petitions for which USCIS does not control the timing. The strict application of 8 U.S.C. 1232(d) to mean adjudicated to completion in 180 days regardless of follow up requests for evidence from petitioners and dependence on timely actions by the United States Postal Service (USPS), State courts, and other agencies, would mean that USCIS would be required to deny adjudications that are incomplete when the 180-day deadline arrives because USCIS cannot legally grant SIJ classification before eligibility is definitively determined. The statute prescribes no penalty if the 180 days are exceeded, and DHS cannot approve (and courts cannot order DHS to approve) petitioners who are not legally eligible. Further, DHS does not believe that Congress wanted denial of the petition before it is fully adjudicated to be the result of that requirement. Therefore, DHS interprets the term ''adjudicated'' in that provision to mean that the 180 days does not begin until the petition is complete, submitted with all of the required initial evidence as provided in the form instructions, and ready for adjudication. This interpretation is consistent with other, more recent, laws in which Congress has prescribed adjudication deadlines on USCIS. *See, e.g.,* Continuing Appropriations Act, 2021, Public Law 116–159, div. D, Title I, sec 4102(b)(2) (stating, ''The required processing timeframe for each of the applications and petitions described in paragraph (1) shall not commence until the date that all prerequisites for adjudication are received by the Secretary of Homeland Security.''). USCIS has extensive and lengthy experience and expertise in adjudicating SIJ cases as authorized by the statute, and interprets the ambiguity in 8 U.S.C. 1232(d)(2) based on this expertise, irrespective of the holding in *Moreno Galvez.* Thus, USCIS will continue to follow regular practices as set out for all immigration petitions at 8 CFR 103.2(b)(10)(i) for SIJ petitions that are not based on Washington State court orders, and will apply 8 CFR 103.2(b)(10)(i) to those based on Washington State court orders.[17]

Comment: Four commenters requested that USCIS not pause the 180-day timeframe for the SIJ petition when an RFE relates only to a pending application for adjustment of status.

Response: DHS agrees that an RFE that relates only to the application for adjustment, and not to the petition for SIJ classification, will not pause the 180-day timeframe for adjudication of the petition for SIJ classification and is incorporating this suggestion at new 8 CFR 204.11(g)(2). The 180-day timeframe relates only to the adjudication of the SIJ petition; therefore, RFEs, NOIDs, or requests unrelated to the SIJ petition do not impact the 180-day timeframe.

Comment: One commenter suggested that the 180-day adjudication timeframe should apply to the SIJ-based adjustment of status application as well.

Response: DHS declines to incorporate this recommendation because statutory language only provides for the 180-day timeframe to apply to petitions for SIJ classification, and not for SIJ-based adjustment of status. The law states that all applications for SIJ classification under section 101(a)(27)(J) of the INA, 8 U.S.C. 1101(a)(27)(J), must be adjudicated by the Secretary of Homeland Security not later than 180 days after the date on which the application is filed. 8 U.S.C. 1232(d)(2). Further, the NPRM did not propose such a change and explicitly stated that ''USCIS interprets the 180-day timeframe to apply to adjudication of the Form I–360 petition for SIJ status only, and not to the Form I–485 application for adjustment of status.'' 76 FR 54983. Finally, the adjudication of the adjustment of status application is distinct from the adjudication of the petition for SIJ classification in that visa number availability may cause delays to the adjudication of the adjustment of status application. This is a variable outside of DHS' control that would potentially render a 180-day timeframe for adjustment applications impossible to adhere to in all cases.

Comment: One commenter suggested that the rule could be improved by creating a structured timeline to ensure that DHS adheres to the 180-day timeframe.

Response: DHS appreciates this comment aimed at ensuring the timely adjudication of SIJ petitions, but declines to impose detailed procedural steps, requirements, or information in its regulations. DHS will consider including additional guidelines regarding the timeframe for adjudications in subregulatory guidance.

5. Decision

Comment: Three commenters said that USCIS must provide notice to a petitioner that a denial is appealable to the AAO. They noted that the previous 8 CFR 204.11(e) states that petitioners will be notified of the right to appeal upon denial, whereas the proposed rule does not contain such a statement.

Response: DHS agrees that regulations on providing petitioners with notice of the right to appeal an adverse decision apply to SIJ petitioners. DHS has incorporated language clarifying that USCIS provides notice of the right to appeal to the petitioner at new 8 CFR 204.11(h), but notes that all petitioners are notified of their right to appeal in accordance with 8 CFR 103.3. DHS defers to the provisions at 8 CFR 103.3 and does not indicate the specific office to which the appeal must be submitted. This rule includes no procedural requirements, office names, locations, and responsibilities. Prescribing office names, filing locations, and jurisdictions via regulation is unnecessary and restricts USCIS' ability to vary work locations as necessary to address its workload needs and better utilize its resources.

G. No Parental Immigration Benefits Based on Special Immigrant Juvenile Classification

DHS proposed that parents of the individual seeking or granted SIJ classification cannot be accorded any right, privilege, or status under the INA by virtue of their parentage. *See* proposed 204.11(g), 76 FR 54986. DHS

[17] DHS has determined that this approach is a logical outgrowth of the proposed rule. DHS proposed its interpretation of the 180-day timeframe (76 FR at 54983), and clarifies in this final rule that it did not intend to change the regulations at 8 CFR 103.2(b)(10)(i) regarding how the requests for additional or initial evidence or to reschedule an interview impact the timeframe imposed for processing SIJ petitions. Though USCIS considered the reasoning in the injunction, the *Moreno Galvez* order has not changed the Agency's ultimate decision to finalize its proposal.

received several comments related to this requirement.

Comment: Two commenters indicated general support for preventing a parent from gaining lawful status through an individual classified as an SIJ. One commenter requested clarification as to whether the parent of a petitioner can obtain lawful status by other means. Another commenter asked DHS to revisit its interpretation that this provision means that any parent (even a non-abusive parent) cannot gain lawful status through the individual granted SIJ classification, regardless of whether the individual goes on to receive LPR status or even United States citizenship. The commenter asked DHS to allow a custodial non-abusive parent to receive status under INA where the hardship to the parent-child familial relationship is one of the elements for the relief sought by the custodial non-abusive parent. The commenter noted that under DHS's interpretation, an individual classified as an SIJ because of a history of abuse, neglect, or abandonment by one parent would potentially lose the protective parent's care and custody if the parent were removed from the United States and was not eligible for any relief based on the parent-child relationship.

Response: While DHS appreciates the comments and acknowledges the vulnerability of a child with SIJ classification, DHS believes it fully explained the statutory limitations in the proposed rule and will make no changes to this provision. DHS notes that the statute states ''no natural parent or prior adoptive parent of any alien provided special immigrant juvenile status . . . shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act.'' INA section 101(a)(27)(J)(iii)(II), 8 U.S.C. 1101(a)(27)(J)(iii)(II). At the time this language was created in the 1998 Appropriations Act, eligibility did not apply to ''one-parent'' SIJ cases. TVPRA 2008 changed that by adding the language regarding the nonviability of reunification with one or both parents. INA section 101(a)(27)(J)(i), 8 U.S.C. 1101(a)(27)(J)(i). However, as noted in the proposed rule, Congress made no changes to the section on parental rights under the INA. The statute is clear that no parent can receive any right under the INA based on the parent-child relationship. The change suggested by the commenter would require legislation, and therefore, DHS cannot make this change in a rulemaking. DHS notes that a parent may qualify for forms of relief that are not based on the parent-child relationship.

Comment: One commenter suggested that USCIS should take steps to ensure that parents who have been found by a juvenile court to be abusive are referred to ICE for additional screening for removability based on that abuse. The commenter stated that for example, ICE should determine whether the parent's conduct constituted an aggravated felony, moral turpitude, or abuse under the Adam Walsh Act, and if probable cause is found, file a Notice to Appear (NTA) with the immigration court.

Response: USCIS is in the process of publishing updated guidance for referring cases to ICE and issuing NTAs, which will be controlling. This guidance is not required to be codifed in regulations. Therefore, DHS will not incorporate the suggestion in the final rule.

Comment: Several commenters noted that the paragraph heading of proposed 8 CFR 204.11(g), ''No parental rights,'' is misleading and asked DHS to clarify that INA does not require the termination of parent rights as a prerequisite for SIJ classification.

Response: DHS agrees with these commenters and has changed the paragraph headings in this rulemaking to ''No parental immigration rights based on special immigrant juvenile classification.'' at new 8 CFR 204.11(i) and 245.1(e)(3)(vi), respectively. In addition, DHS added language that termination of parental rights is not required for a qualifying parental reunification determination at new 8 CFR 204.11(c)(1)(ii).

H. Revocation

The proposed rule discussed amending the grounds for revocation of the underlying SIJ classification while an adjustment of status application is pending based on the legislative changes to the SIJ eligibility requirements. DHS received many comments relating to the various revocation grounds. Some of these comments indicated general support for changing the revocation grounds. These commenters noted their support in particular for removing the revocation grounds based on the petitioner's age, court dependency status, and long-term foster care eligibility. Because there were many comments relating to revocation, DHS is including the following table summarizing the automatic revocation grounds under this final rule:

TABLE 3—AUTOMATIC REVOCATION GROUNDS IN THIS FINAL RULE *

Revocation ground	Corresponding regulatory cite
By virtue of a court order, the individual reunifies with a maltreating parent named in the original court order that found reunification with that parent not viable.	8 CFR 204.11(j)(1)(i).
There is a determination in administrative or judicial proceedings that it is in the individual's best interest to be returned to the country of nationality or last habitual residence of the petitioner or their parent(s).	8 CFR 204.11(j)(1)(ii).

* If any of the following revocation grounds arise after USCIS has approved an SIJ petition but prior to granting of adjustment of status to lawful permanent resident, then USCIS will revoke the SIJ classification.

Regulations on revocation upon notice also apply to SIJ petitions. 8 CFR 205.2. DHS did not specifically discuss revocation upon notice in the proposed rule because it is not changing those regulations, which already apply to SIJ petitions, via this rule. To ensure the public understands the various applicable revocation provisions, DHS added language that USCIS may revoke an approved SIJ petition upon notice at new 204.11(j)(2).

1. Revocation Based on Reunification With a Parent

Comment: Several commenters wrote that the rule should provide more clarity that DHS will not revoke SIJ classification if an individual reunifies with a non-abusive parent. A few of the commenters stated that DHS should not revoke SIJ classification because of reunification with one or both parents when a court had previously found that reunification was not a viable option. The commenters stated that revocation in that case was contrary to the language and purpose of TVPRA 2008. The commenters noted that INA does not require that reunification with a parent never be an option for the individual. These commenters thought revoking the SIJ classification on this ground would punish the individual and work against the permanency goals of the child welfare system.

Response: DHS believes that it is a reasonable interpretation to allow for revocation where the SIJ reunifies with the maltreating parent by virtue of a juvenile court order, as the goal of SIJ classification is relief from parental maltreatment by according them a legal immigration status. When a child can be reunified with their maltreating parent, there is no need for SIJ classification. DHS notes that this automatic revocation ground is limited to cases where a juvenile court order brings about the reunification or reverses the previous nonviability of parental reunification determination. USCIS will not revoke the SIJ classification where the individual reunites with a non-maltreating parent. Automatic revocation based on reunification with a parent is only possible under this rulemaking where the individual reunifies with the maltreating parent named in the court order.

2. Implementation of Changes to the Revocation Grounds

Comment: Two commenters requested that DHS remove the ground for revocation upon the marriage of the approved SIJ from the previous regulation. One commenter wrote that an SIJ petitioner should not be required to stay unmarried, subject to automatic revocation, during the period in which USCIS is adjudicating adjustment of status. This commenter wrote that requiring a young adult to remain unmarried while waiting for a visa number to become available and for USCIS to process their application is an undue burden and reaches beyond the statute. Another commenter opined that marital status at the time of adjudication should not trigger automatic revocation of a petition unless marriage directly affected the dependency status of the petitioner.

Response: DHS agrees with the commenters and has removed marriage of the SIJ beneficiary as a basis for automatic revocation, amending its prior interpretation of INA 245(h). INA 245(h); 8 U.S.C. 1255(h) explicitly references ''a special immigrant described in section 1101(a)(27)(J) of this title''. Although the SIJ definition at section 1101(a)(27)(J) did not use the term child, USCIS incorporated the child definition at INA 101(b)(1) into the regulations. However, DHS recognizes that its prior interpretation has led to certain noncitizens with SIJ classification remaining unable to marry for years, just to maintain eligibility for adjustment. This is due to the prolonged wait times for visa number availability in the EB–4 category for noncitizens of certain countries, a consequence that was not envisioned when the original regulations were promulgated in 1993. Accordingly, DHS is removing marriage of the SIJ beneficiary as a basis for automatic revocation. DHS will maintain its long-standing regulatory requirement, consistent with Congress' use of the term ''child'' in the ''Transition Rule'' provision at section 235(d)(6) of the TVPRA 2008, that a petitioner must be under 21 years of age and unmarried at the time of filing the SIJ petition. New 8 CFR 204.11(b)(2). *See* TVPRA 2008, section 235(d)(6), Public Law 110–457, 122 Stat. 5044, 5080 (providing age-out protections for juveniles who are unmarried and under the age of 21 when their petitions are filed).

Comment: One commenter requested that DHS clarify that USCIS cannot issue notices of intent to revoke (NOIRs) or revocations based on regulations, policy, or practice not in effect when the SIJ petition was approved.

Response: DHS is not adding grounds for revocation, but we are codifying changes required by TVPRA 2008, which we have been following in our current and long-standing practice. Accordingly, DHS can issue NOIRs and revocations based on this regulation, consistent with the relevant statutes. As proposed, DHS has altered this provision consistent with TVPRA 2008 section 235(d)(6), the ''Transition Rule'' provision, which provides that DHS cannot deny SIJ classification based on age if the noncitizen was a child on the date on which the noncitizen filed the petition. As required by this statutory change, DHS has removed revocation grounds based on the petitioner's age and court dependency status. DHS also has removed the revocation ground based on a termination of the SIJ beneficiary's eligibility for long-term foster care as this is no longer a requirement under INA section 101(a)(27)(J), 8 U.S.C. 1101(a)(27)(J). DHS is modifying the regulation in this rule to reflect INA section 101(a)(27)(J)(i), 8 U.S.C. 1101(a)(27)(J)(i), to require automatic revocation of an approved SIJ petition if a court orders reunification with the SIJ beneficiary's maltreating parent(s). However, DHS agrees that USCIS may only revoke SIJ classification, or any other immigration benefit, based on the requirements in place at the time of adjudication.

I. Adjustment of Status to Lawful Permanent Resident (Adjustment of Status)

1. Eligibility

Comment: Several comments indicated that the proposed rule conflated eligibility standards for SIJ classification and for SIJ-based adjustment.

Response: In response to these comments, DHS segregated the standards for SIJ-based adjustment at 8 CFR 245.1(e)(3). DHS also has added clarifying language on eligibility for SIJ-based adjustment of status at 8 CFR 245.1(e)(3)(i).

Comment: Two commenters said that DHS was not clear whether an individual must file for adjustment of status while under 21 years of age.

Response: An individual does not have to meet an age requirement to qualify for adjustment of status based on SIJ classification. Petitioners do not need to remain under 21 years of age at the time of adjudication of the petition, and therefore would not need to be under 21 years of age at the time of SIJ-based adjustment of status. DHS also has removed the age-related automatic revocation ground.

2. Inadmissibility

The TVPRA 2008 amendments to INA section 245(h)(2)(A) included additional grounds of inadmissibility from which SIJ adjustment of status applicants are exempt. The exempted grounds of inadmissibility for SIJ applicants now include: Public charge at INA section 212(a)(4), 8 U.S.C. 1182(a)(4); labor certification at INA section 212(a)(5)(A), 8 U.S.C. 1182(a)(5)(A); aliens present without admission or parole at INA section 212(a)(6)(A), 8 U.S.C. 1182(a)(6)(A); misrepresentation at INA section 212(a)(6)(C), 8 U.S.C. 1182(a)(6)(C); stowaways at INA section 212(a)(6)(D), 8 U.S.C. 1182(a)(6)(D); documentation requirements for immigrants at INA section 212(a)(7)(A), 8 U.S.C. 1182(a)(7)(A); and aliens unlawfully present at INA section 212(a)(9)(B), 8 U.S.C. 1182(a)(9)(B).

An SIJ applicant for adjustment of status may apply for a waiver pursuant to INA section 245(h)(2)(B), 8 U.S.C. 1255(h)(2)(B), for certain grounds of inadmissibility. The following grounds of inadmissibility cannot be waived under INA section 245(h)(2)(B): Conviction of certain crimes at INA section 212(a)(2)(A), 8 U.S.C. 1182(a)(2)(A) (except for a single offense of simple possession of 30 grams or less of marijuana); multiple criminal convictions at INA section 212(a)(2)(B), 8 U.S.C. 1182(a)(2)(B) (except for a single offense of simple possession of 30 grams or less of marijuana); controlled substance traffickers at INA section 212(a)(2)(C), 8 U.S.C. 1182(a)(2)(C) (except for a single offense of simple possession of 30 grams or less of marijuana); security and related grounds

at INA section 212(a)(3)(A), 8 U.S.C. 1182(a)(3)(A); terrorist activities at INA section 212(a)(3)(B), 8 U.S.C. 1182(a)(3)(B); foreign policy at INA section 212(a)(3)(C), 8 U.S.C. 1182(a)(3)(C); and participants in Nazi persecution, genocide, or the commission of any act of torture or extrajudicial killing at INA section 212(a)(3)(E), 8 U.S.C. 1182(a)(3)(E).

Comment: Fifteen commenters wrote that DHS cannot prohibit SIJ petitioners from seeking waivers of grounds of inadmissibility to which petitioners may qualify if otherwise eligible. Commenters wrote that pursuant to INA section 212, 8 U.S.C. 1182, an applicant classified as an SIJ may apply for a waiver for any applicable ground of inadmissibility for which a waiver is available. The commenters stated that while certain grounds of inadmissibility cannot be waived under INA section 245(h)(2)(B), 8 U.S.C. 1255(h)(2)(B), they can be waived under other waiver provisions of the INA, such as INA section 212(h). These commenters wrote that they support the need for additional language on how inadmissibility provisions apply to SIJ petitioners. Another four commenters wrote that they support DHS in including the expanded statutory exemptions from certain inadmissibility grounds.

Response: DHS will implement the expanded statutory exceptions from certain inadmissibility grounds without further change at new 8 CFR 245.1(e)(3)(iii). DHS also has clarified how inadmissibility provisions, bars, and waivers apply to SIJs in this rule. *See* new 8 CFR 245.1(e)(3)(ii) through (v). Specifically, DHS provides that an applicant seeking to adjust status to LPR status based on their classification as an SIJ may be eligible for a waiver for humanitarian purposes, family unity, or when it is otherwise in the public interest pursuant to INA section 245(h)(2)(B), 8 U.S.C. 1255(h)(2)(B). DHS agrees with the commenters that INA section 245(h)(2)(B) does not make certain grounds of inadmissibility unwaivable for SIJs, it only limits the grounds for which such a waiver is available. Nothing in the final rule should be construed to bar an applicant classified as an SIJ from a waiver for which the applicant may be eligible pursuant to INA section 212.

In addition, DHS provides that the only relevant adjustment of status bar that may apply to an SIJ adjustment applicant would be the bar from adjustment if deportable due to engagement in terrorist activity or association with terrorist organizations (INA section 237(a)(4)(B), 8 U.S.C. 1227(a)(4)(B)). *See* new 8 CFR 245.1(e)(3)(ii). For the limited purposes of INA section 245(a), SIJ applicants for adjustment will be deemed to have been paroled into the United States. SIJ applicants for adjustment are not subject to the bars at section 245(c)(2) of the INA that prevent anyone who has accepted unauthorized employment, failed to maintain status, or is in unlawful status at time of filing for adjustment from adjusting status. Applicants who are exempted from the bars at INA section 245(c)(2) also are not barred under INA section 245(c)(7) and (8). Because additional bars to adjustment at INA section 245(c)(1), (3), (4), and (5) only apply to applicants who have been or were otherwise admitted to the United States in a particular status, and SIJs are deemed parolees for the limited purpose of adjustment of status, the only relevant adjustment of status bar that may apply to an SIJ adjustment applicant would be that of being deportable due to engagement in terrorist activity or association with terrorist organizations. INA section 245(c)(6), 8 U.S.C. 1255(c)(6); INA section 237(a)(4)(B), 8 U.S.C. 1227(a)(4)(B).

Comment: Two commenters said that in the event that SIJ petitioners enter the United States without inspection, admittance, or parole, they should first have to re-enter the United States in order to seek adjustment.

Response: Pursuant to INA section 245(h)(1), 8 U.S.C. 1255(h)(1), SIJs are deemed to have been paroled for the limited purpose of adjustment to LPR status. DHS is therefore unable to alter this requirement via this rulemaking as the commenter suggests.

3. No Parental Immigration Rights Based on SIJ Classification

In response to comments stating that DHS conflated the standards for SIJ classification and for SIJ-based adjustment of status in the proposed rule, in the final rule, DHS has separated the standards that relate to SIJ-based adjustment of status into 8 CFR 245.1(e)(3). Because it also applies at the adjustment of status phase, DHS has added the prohibition on parental immigration benefits at 8 CFR 245.1(e)(3)(vi). The language is similar to that used in 8 CFR 204.11(i), for which the DHS position is fully discussed in Section I.D.10 above.

4. No Contact

Comment: Several commenters suggested that DHS extend the prohibition on compelling SIJ petitioners to contact their alleged abuser(s) to subsequent SIJ-related proceedings, including adjustment of status based on approved SIJ classification.

Response: Because SIJ petitions and SIJ-based adjustment of status applications may be filed concurrently, DHS agrees that it is reasonable to extend this prohibition to the adjustment of status phase. DHS implements this prohibition at new 8 CFR 245.1(e)(3)(vii).

5. Other Comments Related to Adjustment of Status

Comment: One commenter said that because SIJs are exempt from the public charge inadmissibility ground, USCIS should exempt SIJs from having to pay a fee for filing the adjustment of status application.

Response: DHS did not propose a change related to exempting SIJs from the Form I–485 fee and declines to include the commenters' suggestion in this final rule. Nevertheless, the fee for an SIJ-based adjustment of status application may be waived on a per case basis.

Comment: Three commenters stated that DHS should create a process for approved SIJs awaiting adjustment to receive deferred action and work authorization to ensure that vulnerable children's rights are being adequately protected.

Response: DHS did not propose to codify regulations that provide for a grant of deferred action and work authorization while the SIJ's Form I–485 is pending, and we are declining to create a deferred action process for approved SIJs awaiting adjustment in this final rule. Deferred action (DA) is a longstanding practice by which DHS may exercise discretion to forbear or assign lower priority to removal action in certain cases for humanitarian reasons, administrative convenience, or in the interest of the Department's overall enforcement mission. DHS may grant DA to individuals with SIJ classification, as in all DA determinations, through an individualized, case-by-case, discretionary determination based on the totality of the evidence. DA is generally not an immigration benefit or program as those terms are known. If DHS decides to implement a DA process, it may be implemented via policy guidance using DHS' inherent authority to exercise DA without rulemaking. Thus DHS is not including DA in this final rule.

Comment: One commenter said that DHS should promulgate a regulation authorizing administrative closure of removal proceedings for cases when a Form I–360 has been approved, but a

visa number is not yet available for adjustment.

Response: The commenter's request is beyond the scope of this rulemaking. DHS is unable to promulgate regulations authorizing administrative closure of removal proceedings as removal proceedings are under the sole purview of the U.S. Department of Justice.

IV. Statutory and Regulatory Requirements

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

Executive Orders (E.O.) 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if a 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. The Office of Information and Regulatory Affairs (OIRA), within the Office of Management and Budget (OMB), has designated this final rule a significant regulatory action though it is not an economically significant rule since it fails to meet the $100 million threshold under section 3(f)(1) of E.O.12866. Accordingly, OIRA has reviewed this regulation.

1. Background and Summary

As discussed in the preamble, DHS is amending its regulations governing the SIJ classification under INA section 101(a)(27)(J), 8 U.S.C. 1101(a)(27)(J), and related applications for adjustment of status to that of a lawful permanent resident under INA section 245(h), 8 U.S.C. 1255(h). Specifically, this rule revises DHS regulations at 8 CFR 204.11, 205.1, and 245.1 to reflect statutory changes, modify certain provisions, codify existing policies, and clarify eligibility requirements.

The statutory foundation for SIJ classification as administered by USCIS has changed over time. The previous CFR provisions on SIJ petition filing requirements and procedures are incongruent with the several legislative changes enacted by Congress since the issuance of the final SIJ rule in 1993.[18] In this final rule, DHS is incorporating these statutorily mandated changes and codifying its long-standing policies and practices already in place.

The provisions of the final rule subject to this regulatory impact analysis are examined against two baselines: (1) The pre statutory baseline; and (2) the no action baseline. The pre statutory baseline evaluates the clarifications in petitioners' eligibility made by TVPRA 2008. In analyzing each provision, DHS finds that these clarificatory changes have no quantifiable impact on eligibility under the pre statutory baseline. Stated alternatively, in the absence of the TVPRA 2008 provisions analyzed in the Sections (a) through (m) that follow, DHS has no evidence suggesting SIJ trends would have behaved differently in the intervening years. Consequently, this analysis focuses mainly on the no action baseline and those regulatory provisions affecting the petitioning-adjudicating process and then analyzes the historical growth of demand for and grants of SIJ classification in order to assess the benefits and costs accruing to each stakeholder. Table 4 summarizes the final provisions of this rule with an economic impact.

The final rule will impose costs on a group of petitioners who will now be eligible to submit Form I–601, Form I–485 and Form I–765 once they already have an approved Form I–360 under the no action baseline. This final rule will allow SIJ beneficiaries who get married prior to applying for LPR status to remain eligible to obtain permanent residence. This rule will also allow SIJ beneficiaries who have simple possession offenses to be eligible for Form I–601 if inadmissible under any of the provisions listed at INA section 212(a)(2), 8 U.S.C. 1182(a)(2). DHS assumes that every petitioner who will not have their SIJ classification revoked because of marriage will file Form I–485 which will lead to new costs (and benefits) to those petitioners.

The final rule may impose costs of providing evidence regarding a State court determination. The changes in this final rule will not add additional costs or benefits to Form I–360 petitioners currently petitioning for SIJ classification under the no action baseline, however impacts will be discussed in the pre statutory baseline discussion. The changes in this final rule will codify statutory changes into regulation, modify certain provisions, codify existing policies, clarify eligibility requirements, and will not impact children applying for SIJ classification. DHS has required this additional evidence since the TVPRA 2008. Due to data limitations that preclude identification of the unrelated factors that explain the changes in the volume of petitioners observed over time, DHS is limited in its assessment of Form I–360 data.

The primary benefit of the rule to USCIS is greater consistency with statutory intent, and efficiency. The eligibility provisions offer an increased protection and quality of life for petitioners. By allowing reunification with non-abusive parents, the rule serves the child welfare goal of family permanency. By clarifying the requirements for qualifying juvenile court orders, the regulation will not require petitioners to provide evidence of the juvenile court's continuing jurisdiction in certain circumstances, such as when a child welfare permanency goal is reached, such as adoption. *See* new 8 CFR 204.11(c)(3)(ii)(A). The procedural changes to 8 CFR 204.11 to provide a timeframe for the adjudication process both clarify the requirements for petitioning for SIJ classification (streamlining consent, explaining documentation, outlining the interview, setting timeframe) and reduce the hurdles to successfully adjusting to LPR status once SIJ classification has been granted (incorporating expanded grounds for waivers of inadmissibility). Further, the rule centralizes and makes explicit the barriers from contact with alleged abusers to which the petitioner is entitled. Another benefit is that SIJ beneficiaries who marry prior to applying for LPR will also benefit from no longer having their SIJ classification revoked.

DHS estimates the total quantified costs of the rule to reflect the total cost to file Form I–485 for SIJ beneficiaries who marry prior to applying for LPR and SIJ beneficiaries to file Form I–601 who have simple possession offenses prior to applying for LPR, and may qualify for a waiver to an inadmissibility ground under INA section 212(a)(2), 8 U.S.C. 1182(a)(2).

For the 10-year implementation period of the rule, DHS estimates the annualized costs of this rule will be $34,871 annualized at 3-percent and 7-percent under the no action baseline. The total cost to petitioners in the pre statutory baseline ranges from a minimum of $236,845 [19] in FY 2008 to

[18] *See* Table 1, Summary of Statutory Amendments to SIJ Classification, for a list of all legislation impacting the statutory requirements of SIJ.

[19] Total Cost in 2008 ($1,708) + Total Cost for In-house Attorney in 2008 ($235,137) = $236,845 minimum cost in 2008.

[20] Total Cost in 2017 ($33,099) + Total Cost for Outsourced Attorney in 2017 ($7,901,271) = $7,934,370 maximum cost in 2017.

a maximum of $7,934,370 [20] in FY 2017. Table 4 provides a more detailed summary of the final rule provisions and their economic impacts under the no action baseline.

TABLE 4—SUMMARY OF MAJOR PROVISIONS AND IMPACTS BASED ON THE NO ACTION BASELINE

Final rule provisions	Purpose	Estimated benefits of the provision	Estimated costs of the provision

1. Inadmissibility Provisions:
• An applicant for adjustment of status based on special immigrant juvenile classification is not subject to the following inadmissibility grounds:
  • (A) Public charge (INA section 212(a)(4));
  • (B) Labor certification (INA section 212(a)(5)(A));
  • (C) Noncitizens present without admission or parole (INA section 212(a)(6)(A));
  • (D) Misrepresentation (INA section 212(a)(6)(C));
  • (E) Stowaways (INA section 212(a)(6)(D));
  • (F) Documentation requirements for immigrants (INA section 212(a)(7)(A)); and
  • (G) Noncitizens unlawfully present (INA section 212(a)(9)(B)).
	• Amend 8 CFR 204.11 to promote consistency with The William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA 2008), Public Law 110–457, 112 Stat. 5044 (Dec. 23, 2008).	• SIJ beneficiaries who file Form I–601 who have simple possession offenses prior to applying for LPR, and may qualify for a waiver to an inadmissibility ground under INA section 212(a)(2), 8 U.S.C. 1182(a)(2).
		• This modification may allow SIJs with a simple possession offense, the chance to remain eligible for lawful permanent residence.
			• DHS estimates the quantified costs of the provision rule to be approximately $4,791 which reflects the total cost for SIJ beneficiaries to file Form I–601 who have simple possession offenses prior to applying for LPR, and may qualify for a waiver to an inadmissibility ground under INA section 212(a)(2), 8 U.S.C. 1182(a)(2).

2. Marriage as a Ground for Automatic Revocation: • DHS has removed marriage of the SIJ beneficiary as a basis for automatic revocation, amending its prior interpretation of INA 245(h). INA 245(h); 8 U.S.C. 1255(h) explicitly references ''a special immigrant described in section 1101(a)(27)(J) of this title''. Although the SIJ definition at section 1101(a)(27)(J) did not use the term child, USCIS incorporated the child definition at INA 101(b)(1) into the regulations.	• DHS is removing marriage of the SIJ beneficiary as a basis for automatic revocation. DHS will maintain its long-standing regulatory requirement, consistent with Congress' use of the term ''child'' in the ''Transition Rule'' provision at section 235(d)(6) of the TVPRA 2008, that a petitioner must be under 21 years of age and unmarried at the time of filing the SIJ petition. • New 8 CFR 204.11(b)(2). See TVPRA 2008, section 235(d)(6), Public Law 110–457, 122 Stat. 5044, 5080 (providing age-out protections for juveniles who are unmarried and under the age of 21 when their petitions are filed).	• SIJ beneficiaries will no longer be subject to automatic revocation of their approved SIJ petition if they marry.	• DHS estimates total annual quantified costs of approximately $30,080 to which reflects the total cost of SIJ beneficiaries who file Form I–485 and, who marry prior to applying for LPR.

In addition to the impacts summarized above, and as required by the OMB Circular A–4,[21] Table 5 presents the prepared accounting statement showing the costs and benefits associated with this regulation. as required by OMB Circular A–4.

TABLE 5—OMB A–4 ACCOUNTING STATEMENT FOR NO ACTION BASELINE

[$ millions, FY 2020—time period: FY 2022 through FY 2031]

Category	Primary estimate	Minimum estimate	Maximum estimate	Source citation
BENEFITS				
Monetized Benefits	N/A			Regulatory Impact Analysis (''RIA'').
Annualized quantified, but un-monetized, benefits	N/A			RIA.
Unquantified Benefits	The eligibility provisions offer an increased protection and quality of life for petitioners. By allowing reunification with non-abusive parents, the rule serves the child welfare goal of family permanency. By clarifying the requirements for qualifying juvenile court orders, the regulation will not require petitioners to provide evidence of the juvenile court's continuing jurisdiction in certain circumstances, such as when a child welfare permanency goal is reached (e.g., adoption). See new 8 CFR 204.11(c)(3)(ii)(A). DHS has removed marriage of the SIJ beneficiary as a basis for automatic revocation. This change is a benefit to petitioners, so they can remain eligible for lawful permanent residence and do not have to put marriage on hold.			RIA.

[19] Total Cost in 2008 ($1,708) + Total Cost for In-house Attorney in 2008 ($235,137) = $236,845 minimum cost in 2008.

[20] Total Cost in 2017 ($33,099) + Total Cost for Outsourced Attorney in 2017 ($7,901,271) = $7,934,370 maximum cost in 2017.

TABLE 5—OMB A–4 ACCOUNTING STATEMENT FOR NO ACTION BASELINE—Continued
[$ millions, FY 2020—time period: FY 2022 through FY 2031]

Category	Primary estimate	Minimum estimate	Maximum estimate	Source citation
	The procedural changes to 8 CFR 204.11 to provide a timeframe for the adjudication process both clarify the requirements for petitioning for SIJ classification (streamlining consent, explaining documentation, outlining the interview, setting timeframe) and reduce the hurdles to successfully adjusting to LPR status once SIJ classification has been granted (incorporating expanded grounds for waivers of inadmissibility). Further, the rule centralizes and makes explicit the barriers from contact with alleged abusers to which the petitioner is entitled, promoting peace of mind. DHS has also expanded application of the simple possession exception to certain grounds of inadmissibility under the INA. This modification may allow SIJ-classified individuals to remain eligible for lawful permanent residence.			
COSTS				
Annualized monetized costs (7%)	$0.03	N/A	N/A	RIA.
Annualized monetized costs (3%)	$0.03	N/A	N/A	
Annualized quantified, but un-monetized, costs	N/A			
Qualitative (unquantified) costs	N/A			RIA.
TRANSFERS				
Annualized monetized transfers: ''on budget''	N/A			
From whom to whom?	N/A			
Annualized monetized transfers: ''off-budget''	N/A			
From whom to whom?				
Miscellaneous analyses/category	Effects			Source citation
Effects on State, local, or tribal governments	None			RIA.
Effects on small businesses	None			RIA.
Effects on wages	None			None.
Effects on growth	None			None.

2. Provisions of the Rule and Impacts

Congress introduced SIJ classification in the INA as a means of providing lawful permanent residence to juvenile noncitizens in need of state intervention from parental maltreatment.[22] As stated earlier, the provisions subject to this impact analysis either clarify a petitioner's eligibility or alter the eligibility of SIJ beneficiaries who marry prior to applying for LPR. Following careful consideration of public comments received and relevant data provided by stakeholders, DHS has made several changes from the NPRM. The NPRM [23] stated that the fee impacts of this rule on each SIJ petitioner as well as on USCIS were neutral. In the NPRM, USCIS estimated that filings for SIJ classification will continue at about the same volume as they had in the relatively recent past. Based on public comments, DHS took a more in depth look at the costs and benefits, in this final rule. DHS has made several changes from the NPRM, outlined in Section I. D. above, which have resulted in costs to the petitioners for certain SIJ populations.

(a) Requirements at Time of Filing and Adjudication

The final rule will continue to require a petitioner seeking SIJ classification to be under 21 years of age at the time of filing the petition and unmarried at the time of filing. Clarifying language will specify that an SIJ petitioner is required to remain unmarried at the time their petition is adjudicated, and physically present in the United States at the time of filing and adjudication. The requirement that the petitioner be under the age of 21 at the time of filing the petition, rather than at the time of adjudication, reflects protections against aging out of eligibility for SIJ classification as promulgated by TVPRA 2008. DHS estimates no impacts from this regulatory change, in this final rule.

(b) DHS Consent

The original statute for SIJ classification did not include a consent function, and therefore it was not in the previous regulation. As discussed in the above responses to public comments, DHS consent was first incorporated into the SIJ statute through amendments to the statute from the 1998 Appropriations Act. In 2008 the TVPRA further modified the consent function to require that a petitioner obtain DHS consent to the grant of SIJ classification. The DHS consent authority is delegated to USCIS, and USCIS approval of the petition constitutes the granting of consent. For USCIS to consent, petitioners are required to establish that a primary reason the required juvenile court determinations were sought was to obtain relief from parental abuse, neglect, abandonment, or a similar basis under state law.

The final rule includes evidentiary requirements for DHS consent. To receive DHS consent, the court order and any supplemental evidence submitted by the petitioner must include the following: The court-ordered relief from parental abuse, neglect, abandonment, or a similar basis under State law granted by the juvenile court, and the factual basis for the juvenile court's determinations. Consent is provided by approval of the petition, signifying that the Secretary of Homeland Security consents to granting the SIJ classification. *See* new 8 CFR

[22] Noncitizens may file a Petition for Amerasian, Widow(er), or Special Immigrant (Form I–360) for SIJ classification, and if a visa number is available, they may file an Application to Register Permanent Residence or Adjust Status (Form I–485) to become a lawful permanent resident (LPR). Note that a grant of SIJ classification does not guarantee permanent resident status.

[23] See USCIS, ''Special Immigrant Juvenile Petitions,'' Proposed Rule, 76 FR 54978, 54984–95 (Sep. 6, 2011).

204.11(b)(5). This additional evidence has been collected since TVPRA 2008. Because of this DHS only estimates this regulatory change, in this final rule in the pre statutory baseline.

(c) Qualifying Juvenile Court Orders

Under the initial SIJ statute, a noncitizen child was eligible for SIJ classification if he or she had been declared dependent on a juvenile court located in the United States and deemed eligible by that court for long-term foster care. As discussed earlier in the preamble, several statutory changes modified the requirements for SIJ eligibility, including the requirements for qualifying juvenile court orders. Reflecting these changes, the final rule requires a petitioner to obtain qualifying juvenile court determinations regarding dependency or custody, parental reunification, and best interests. Any juvenile court order(s) is required to meet certain validity requirements, including that it may be valid at the time of filing and adjudication, unless either of two exceptions apply. The first exception is for petitioners who, because of their age, no longer have a valid juvenile court order either prior to or subsequent to filing the SIJ petition. *See* new 8 CFR 204.11(c)(3)(ii)(B). The second is an exception that allows petitioners to remain eligible for SIJ classification if juvenile court jurisdiction terminated because adoption, placement in permanent guardianship, or another type of child welfare permanency goal (other than reunification with the offending parent) was reached. *See* new 8 CFR 204.11(c)(3)(ii)(A). These changes reflect the statutory amendments from TVPRA 2008 and are consistent with Congress's purpose to protect children from parental maltreatment. Because of this, DHS only estimates the impact of this regulatory change, in this final rule in the pre statutory baseline.

(d) Dependency or Custody

In order to receive a qualifying court-ordered juvenile dependency or custody determination, the petitioner must be declared dependent upon a juvenile court, or a juvenile court must have placed the petitioner in the custody of a State agency or department, or an individual or entity appointed by the State or juvenile court.

A child may become subject to the jurisdiction of a State court through various iterations of custody or dependency, such as foster care, guardianship, adoption, or custody.[24] Under the previous rule, children were required to be found dependent on the juvenile court and eligible for long-term foster care. The final rule gives deference to State courts on their determinations of custody or dependency under State law.

Language in previous 8 CFR 204.11(c)(4) states that a petitioner is required to be deemed ''eligible for long-term foster care''. The TVPRA 2008 removed the requirement that petitioners be deemed eligible for long-term foster care, reflecting a shift in the child welfare system away from long-term foster care as a permanent option for children in need of protection from parental maltreatment. TVPRA 2008 expanded eligibility to include noncitizens who cannot reunify with one or both parents and who are determined to be dependent on the juvenile court or placed in the custody of an individual or entity by the juvenile court. DHS expects that the expansion of eligibility introduced by the TVPRA 2008 and codified here resulted in new petitions. DHS is unable to obtain data that would attribute the expansion in eligibility's contribution to the increase in petitions received before and after TVPRA 2008. The implications of limitation are discussed further in the Costs and Benefits of the Final Rule section. DHS only estimates the impact of this regulatory change in the pre statutory baseline.

(e) HHS Specific Consent

The final rule incorporates a provision regarding HHS specific consent, which was created by the 1998 Appropriations Act and modified by the TVPRA 2008. The regulation provides the limited circumstances under which USCIS requires evidence of HHS consent at new 8 CFR 204.11(d)(6). The language intentionally restricts the pool of children in HHS custody to whom the specific consent requirement applies, clarifying that it applies specifically to those who seek juvenile court orders changing their custodial placement, as was intended by both the TVPRA 2008 and the subsequent *Perez-Olano Settlement Agreement. Perez-Olano, et al.* v. *Holder, et al.,* Case No. CV 05–3604 (C.D. Cal. 2010). DHS estimates no impacts from this regulatory change, in this final rule.

(f) Petition Requirements

The final rule clarifies the requirements for submission of an SIJ petition (*see* new 8 CFR 204.11(d)), including providing additional information regarding what evidence can be provided to demonstrate that the juvenile court made a qualifying determination of similar basis under State law and when DHS consent is warranted. DHS estimates no impacts from this regulatory change, in this final rule.

(g) Inadmissibility

The final rule implements statutory revisions exempting SIJ adjustment of status applicants from four additional grounds of inadmissibility pursuant to changes made by the 2008 TVPRA. With these additional four grounds, an applicant filing for adjustment of status based on SIJ classification is not subject to the following inadmissibility provisions of section 212(a) of the Act: Public charge (INA section 212(a)(4), 8 U.S.C. 1182(a)(4)); Labor certification (INA section 212(a)(5)(A), 8 U.S.C. 1182(a)(5)(A)); Aliens present without admission or parole (INA section 212(a)(6)(A), 8 U.S.C. 1182(a)(6)(A)); Misrepresentation (INA section 212(a)(6)(C), 8 U.S.C. 1182(a)(6)(C)); stowaways (INA section 212(a)(6)(D), 8 U.S.C. 1182(a)(6)(D)); documentation requirements for immigrants (INA section 212(a)(7)(A), 8 U.S.C. 1182(a)(7)(A)); and Aliens unlawfully present (INA section 212(a)(9)(B), 8 U.S.C. 1182(a)(9)(B)).

In the final rule, DHS has expanded application of the ''simple possession exception,'' to the grounds of inadmissibility under INA section 212(a)(2)(A), 8 U.S.C. 1182(a)(2)(A) (conviction of certain crimes) and INA section 212(a)(2)(B), 8 U.S.C. 1182(a)(2)(B) (multiple criminal convictions), in addition to the existing application of the simple possession exception at INA section 212(a)(2)(C), 8 U.S.C. 1182(a)(2)(C) (controlled substance traffickers). *See* new 8 CFR 245.1(e)(3)(v)(A). This modification was the result of a recent Board of Immigration Appeals decision in *Matter of Moradel,* which conducted a statutory analysis of the scope of the simple possession exception under INA section 245(h)(2)(B) and concluded that it ''applies to all of the provisions listed under section 212(a)(2)'' and that ''Congress intended the 'simple possession' exception in section 245(h)(2)(B) to be applied broadly.'' 28 I&N Dec. 310, 314–315 (BIA 2021). DHS estimates the quantified costs of the provision to be approximately $4,791, which reflects the total cost for SIJ beneficiaries to file Form I–601 who have simple possession offenses prior to applying for LPR, and may qualify for a

[24] DHS did not include a list of examples of qualifying placements to avoid confusion that qualifying placements are limited to those listed.

waiver to an inadmissibility ground under INA section 212(a)(2), 8 U.S.C. 1182(a)(2).

(h) Interviews

USCIS may conduct interviews to clarify portions of the petition during adjudication; however, interviews are not required (*see* new 8 CFR 204.11(f)). The final rule also clarifies that while USCIS may limit the number of people present at the interview, the petitioner's attorney or accredited representative will always be permitted to attend. It also provides that a ''trusted adult'' may be present, further clarifying the resources available to the petitioner during adjudication.

(i) No Parental Immigration Rights

The rule codifies the long-standing statutory provision that no natural or prior adoptive parent may derive immigration benefits through their relationship to an SIJ beneficiary. The rule further clarifies that this restriction remains in effect even after the SIJ becomes a lawful permanent resident or a United States citizen. *See* new 8 CFR 204.11(i) and 245.1(e)(3)(vi). DHS estimates no impacts from this regulatory change, in this final rule.

(j) No Contact

The final rule provides that at no point during the adjudication process will a petitioner be required to contact an individual who allegedly battered, neglected, or abandoned the petitioner, or any family member of that person, during the petition or application process. *See* INA section 287(h), 8 U.S.C. 1357(h); new 8 CFR 204.11(e) and 245.1(e)(3)(vii).[25] In addition, for alignment with the language at INA section 101(a)(27)(J)(i) regarding the eligibility requirement that reunification not be viable with a petitioner's parent(s) due to ''abuse, neglect, abandonment, or a similar basis under state law,'' DHS is including the term ''abused'' at new 8 CFR 204.11(e) and 245.1(e)(3)(vii). This regulatory change is based upon the statutory amendment to INA section 287(h) enacted by VAWA 2005, which was intended to keep children safer.

(k) Marriage as a Ground for Automatic Revocation

DHS has removed marriage of the SIJ beneficiary as a basis for automatic revocation, amending its prior interpretation of INA 245(h). INA 245(h); 8 U.S.C. 1255(h) explicitly references ''a special immigrant described in section 1101(a)(27)(J) of this title''. Although the SIJ definition at section 1101(a)(27)(J) did not use the term child, USCIS incorporated the child definition at INA 101(b)(1) into the regulations. However, DHS recognizes that its prior interpretation has led to certain noncitizens with SIJ classification remaining unable to marry for years, just to maintain eligibility for adjustment. This is due to the prolonged wait times for visa number availability in the EB–4 category for noncitizens of certain countries, a consequence that was not envisioned when the original regulations were promulgated in 1993. Accordingly, DHS is removing marriage of the SIJ beneficiary as a basis for automatic revocation. DHS will maintain its long-standing regulatory requirement, consistent with Congress' use of the term ''child'' in the ''Transition Rule'' provision at section 235(d)(6) of the TVPRA 2008, that a petitioner must be under 21 years of age and unmarried at the time of filing the SIJ petition. New 8 CFR 204.11(b)(2). *See* TVPRA 2008, section 235(d)(6), Public Law 110–457, 122 Stat. 5044, 5080 (providing age-out protections for juveniles who are unmarried and under the age of 21 when their petitions are filed). This provision may allow some SIJ beneficiaries to now be eligible to adjust status that otherwise would not under the no action baseline. The total cost to the newly eligible population to complete and file Form I–485 and Form G–28, where applicable is $30,080.[26]

(l) Timeframe for Decisions

Pursuant to TVPRA 2008 (section 235(d)(2), 8 U.S.C. 1232(d)(2)), the final rule specifies that in general, USCIS will make a decision on an SIJ petition within 180 days. *See* new 8 CFR 204.11(g). This provision also clarifies when the 180-day period may begin and when it may pause due to delays caused by the petitioner, in accordance with longstanding regulation at 8 CFR 103.2(b)(10)(i). Since this is a clarifying provision, DHS does not estimate any impacts from this regulatory change, in this final rule.

(m) Special Immigrant Juvenile Petition Filing and Adjudication Process

The overarching process for a petitioner to obtain immigration benefits as an SIJ is a three-step sequence:

(1) Obtaining qualifying juvenile court order(s) containing the required judicial determinations for SIJ classification from a state juvenile court;

(2) Filing a Form I–360 petition with USCIS for SIJ classification; and

(3) Applying for LPR status using Form I–485 when a visa number is available.

This final rule does not change this general process but makes some adjustments in accordance with statutory amendments related to SIJ classification. The statutory amendments codified in the regulation include the following: The DHS consent function; HHS specific consent; documentation for petitions; inadmissibility; interview procedures; no parental immigration benefits, no contact provisions; and timeframe for adjudication.

Noncitizens may request SIJ classification using Form I–360 and accompanying Form G–28 if an attorney or representative files on behalf of the petitioner. The final rule will require additional documentation if the petitioner requires HHS consent and clarifies the types of evidence that may fulfill the requirements for a qualifying non-viability of reunification determination based on a similar basis under state law as well as the evidentiary requirements for DHS consent, for the no action baseline. The noncitizen filing a Form I–485 based on an approved SIJ petition is considered paroled into the United States for the limited purpose of eligibility for adjustment of status, even if the noncitizen entered the United States unlawfully. Form I–485 can either be filed concurrently with Form I–360 if a visa number is immediately available, or subsequent to approval of a Form I–360. An SIJ petitioner or beneficiary may apply for employment authorization pursuant to the pending adjustment application via Form I–765, Application for Employment Authorization.

Applicants deemed inadmissible to the United States may submit an application for a waiver of certain grounds of inadmissibility, as provided by the final rule at new 8 CFR 245.1(e)(3)(v). Form I–912, Request for Fee Waiver, is used to request a fee waiver for certain immigration forms and services based on a demonstrated inability to pay. Applicants submitting Form I–485, Application to Register Permanent Residence or Adjust Status, based on SIJ classification are eligible to seek a fee waiver for Form I–485 and related forms.

[25] The protection at INA section 287(h) for a petitioner seeking SIJ classification from being compelled to contact an alleged abuser, or the abuser's family member, was added by the Violence Against Women and Department of Justice Reauthorization Act of 2005 (VAWA 2005), Public Law 109–162, 119 Stat. 2960 (Jan. 5, 2006).

[26] Calculation: ($18,240 Filing Fees) + ($11,840 Opportunity Cost of Time) = $30,080 Total Cost.

3. Costs and Benefits of the Final Rule

(a) Costs and Benefits of the Final Rule Relative to a Statutory Baseline

This rule revises DHS regulations at 8 CFR 204.11, 205.1, and 245.1 to reflect statutory changes, modify certain provisions, codify existing policies, and clarify eligibility requirements. The final rule may impose a higher burden on petitioners by requiring evidence that the juvenile court's determination is legally similar to abuse, neglect, or abandonment under state law; however, DHS has required additional evidence from some petitioners since the TVPRA 2008 on this issue. Because this additional evidence has been required for many years, DHS is unable to estimate how frequently this evidence is insufficient in petitioners' filings or how much additional time or effort this might have required.

Since its creation in 1990, USCIS has seen a significant increase in petitions for SIJ classification. Table 6 shows the total annual receipts for filings of Form I–360 during fiscal years (FYs) 2003 through 2020.

TABLE 6—APPROVALS, DENIALS, AND RECEIPTS OF PETITION FOR AMERASIAN, WIDOW(ER), OR SPECIAL IMMIGRANT (FORM I–360) APPLICATION CLASS: SPECIAL IMMIGRANT JUVENILES, FOR FY 2003 THROUGH FY 2020

Fiscal year	Receipts	Approvals	Denials	Revocations
2003	79	33	8	0
2004	202	132	32	1
2005	327	246	35	1
2006	485	412	34	1
2007	659	577	45	0
2008	1,137	1,045	73	1
2009	1,369	1,281	69	3
2010	1,646	1,537	82	2
2011	2,226	2,095	98	2
2012	2,967	2,788	155	3
2013	3,996	3,756	148	20
2014	5,815	5,349	323	26
2015	11,528	10,767	651	70
2016	19,572	18,223	1,121	99
2017	22,154	19,471	2,399	23
2018	21,899	20,500	1,111	6
2019	20,783	19,733	688	3
2020	18,788	17,220	418	1
5-year Total*	103,196	95,147	5,737	132
5-year Annual Average*	20,639	19,029	1,147	26

Note: The report reflects the most up-to-date data available at the time the system was queried. Database Queried: March. 5, 2021, System: USCIS C3 Consolidated via SASPME, Office of Policy and Strategy (OP&S), Policy Research Division (PRD). The data reflect the current status of the petitions received in each fiscal year.

**5-year calculations are based only on FY 2016 through FY 2020.*

Table 6 shows the total population in FY 2003 through FY 2020 that filed Form I–360 for SIJ classification. Over the five-year period from FY 2016 through FY 2020, the number of Form I–360 receipts for SIJ classification ranged from a low of 18,788 in FY 2020 to a high of 22,154 in FY 2017. The trend in the annual number of Form I–360 receipts for SIJ classification has steadily increased over the past few decades, but the annual receipts of Form I–360 has decreased in the past three FYs. From FY 2017 through FY 2020, the number of receipts of Form I–360 has decreased by 15 percent.[27] DHS is unable to quantify the portion of the observed increase in receipts in 2008 and after which may have been the result of the expansion of eligibility triggered by TVPRA 2008. DHS does not have enough information to conclude on the exact reasons for the cause in the significant increases in applications over the past 12 years, and furthermore, DHS cannot determine if TVPRA 2008 was the sole cause for the increased applications. As a result, DHS presents a range of possible impacts estimating a minimum and maximum cost to petitioners under the pre statutory baseline below.

In addition to including the most current receipt and approval trends, the data presented in Table 6 are updated and differ from discussion of receipts and approvals for FY 2006 through FY 2009 that appeared in the Notice of Proposed Rulemaking, which were obtained prior to USCIS data centralization initiatives.

i. Form I–360, Petition for Amerasian, Widow(er), or Special Immigrant and Form G–28

Although there is no fee to file Form I–360 to request SIJ classification, DHS estimates the public reporting time burden is 2 hours and 5 minutes (2.08 hours), which includes the time for reviewing instructions, gathering the required documentation and information, completing the petition, preparing statements, attaching necessary documentation, and submitting the petition.[28] DHS acknowledges that SIJ petitioners filing Form I–360 may incur additional costs obtaining judicial determinations and, in many instances, may elect to acquire legal representation.

To estimate the opportunity costs of time for petitioners who are not using a

[27] Calculation: ((FY 2020 Form I–360 receipts 18,788 − FY 2017 Form I–360 receipts 22,154)/FY 2017 Form I–360 receipts 22,154) × 100) = −15 percent (rounded).

[28] *See* Instructions for Petition for Amerasian, Widow(er), or Special Immigrant (time burden estimate in the Paperwork Reduction Act section). Form I–360 *https://www.uscis.gov/sites/default/files/document/forms/i-360.pdf.* OMB No. 1615–0020. Expires Jun. 30, 2022. A separate time burden of 3 hours and 5 minutes (3.08 hours) per response for Iraqi or Afghan Nationals employed by or on behalf of the U.S. Government in Iraq or Afghanistan, and 2 hours and 20 minutes (2.33 hours) per response for Religious Workers. DHS does not expect an additional burden for Iraqi or Afghan Nationals employed by or on behalf of the U.S. Government in Iraq or Afghanistan or Religious workers. The public reporting burden for this collection of information is estimated at 2 hours and 5 minutes (2.08 hours) per response.

lawyer, USCIS uses an average total rate of compensation based on the effective minimum wage. SIJ petitioners are young with limited work experience/education; therefore, their wages would likely be in line with a lower wage. As reported by The New York Times ''[t]wenty-nine states and the District of Columbia have state-level minimum hourly wages higher than the federal [minimum wage],'' as do many city and county governments. Analysis by The New York Times estimates that ''the effective minimum wage in the United States . . . [was] $11.80 an hour in 2019.'' [29] DHS relies on this more robust minimum wage of $11.80 per hour, as a reasonable estimate of the per hour wages used to estimate the opportunity costs of time. In order to estimate the fully loaded wage rates, to include benefits, USCIS used the benefits-to-wage multiplier of 1.45 and multiplied it by the prevailing minimum hourly wage rate. DHS accounts for worker benefits when estimating the opportunity cost of time by calculating a benefits-to-wage multiplier using the most recent Department of Labor (DOL), Bureau of Labor Statistics (BLS) report detailing average compensation for all civilian workers in major occupational groups and industries. DHS estimates the benefits-to-wage multiplier is 1.45.[30] The fully loaded per hour wage rate for someone earning the prevailing minimum wage rate is $17.11.[31] Therefore, DHS estimates that the opportunity cost for each petitioner is $35.59 per response for the SIJ petition.[32]

For petitioners who acquire attorneys or accredited representation to petition on their behalf, Form G–28 must be filed in addition to Form I–360. Table 7 shows historical Form G–28 filings by attorneys or accredited representatives accompanying SIJ petitions. DHS notes that these forms are not mutually exclusive. Based on the 5-year average, DHS estimates 95.8 percent [33] of Form I–360 petitions are filed with a Form G–28. The remaining 4.2 percent [34] of petitions are filed without a Form G–28.

TABLE 7—FORM I–360, SIJ PETITIONS SUBMITTED TO USCIS FROM FY 2016 THROUGH FY 2020 WITH A FORM G–28

Fiscal year	Number of Form I–360 receipts	Number of petitions filed with Form G–28
2016	19,572	17,830
2017	22,154	21,252
2018	21,899	21,306
2019	20,783	20,244
2020	18,788	18,221
Total	103,196	98,853
5-year Annual Average	20,639	19,771

Source: USCIS, Office of Policy and Strategy (OP&S), Policy Research Division (PRD), Claims 3 database. March 5, 2021 & USCIS Analysis.

DHS estimates the opportunity cost of time for attorneys or accredited representatives using an average hourly wage rate $71.59 for lawyers.[35] However, average hourly wage rates do not account for worker benefits such as paid leave, insurance, and retirement. DHS accounts for worker benefits when estimating the opportunity cost of time by calculating a benefits-to-wage multiplier using the most recent Department of Labor (DOL), Bureau of Labor Statistics (BLS) report detailing average compensation for all civilian workers in major occupational groups and industries. DHS estimates the benefits-to-wage multiplier is 1.45.[36] DHS calculates the average total rate of compensation as $103.81 [37] per hour for an in house lawyer. Therefore, DHS estimates that the opportunity cost for each petitioner is $215.92 per response for the in house attorney.[38] DHS recognizes that an entity may not have lawyers embedded in their organization and may choose, but is not required, to outsource the preparation of these petitions and, therefore, presents two wage rates for lawyers to account for the often higher salaries of lawyers. DHS multiplied the average hourly U.S. wage rate for lawyers by 2.5 for a total of

[29] ''Americans Are Seeing Highest Minimum Wage in History (Without Federal Help)'' Ernie Tedeschi, The New York Times, April 24, 2019. Accessed at *https://www.nytimes.com/2019/04/24/upshot/why-america-may-already-have-its-highest-minimum-wage.html* (last visited June 25, 2020).

[30] The benefits-to-wage multiplier is calculated as follows: ($38.60 Total Employee Compensation per hour)/($26.53Wages and Salaries per hour) = 1.454964 = 1.45 (rounded). *See* U.S. Department of Labor, Bureau of Labor Statistics, Economic News Release, *Employer Cost for Employee Compensation (December 2020), Table 1. Employer Costs for Employee Compensation by ownership* (Dec. 2020), *https://www.bls.gov/news.release/archives/ecec_03182021.pdf* (last visited September 2, 2021).

[31] Calculation: (Effective Minimum Wage Rate) $11.80 × (Benefits-to-wage multiplier) 1.45 = $17.11 per hour.

[32] Calculation: (Effective Wage) $17.11 × (Estimated Opportunity of Cost to file Form I–360) 2.08 hours = $35.59.

[33] Calculation: (19,771 Form G–28/20,639 Form I–360 petitions) × 100 = 95.8 percent (rounded).

[34] Calculation: 100 percent − 95.8 percent filing with Form G–28 = 4.2 percent only filing Form I–360.

[35] *See* U.S. Department of Labor, Bureau of Labor Statistics, Occupational Employment Statistics, May 2020 National Occupational Employment and Wage Estimates-National, *SOC 23–1011—Lawyers, https://www.bls.gov/oes/2020/may/oes_nat.htm* (last visited March 31, 2021).

[36] The benefits-to-wage multiplier is calculated as follows: ($38.60 Total Employee Compensation per hour)/($26.53Wages and Salaries per hour) = 1.454964 = 1.45 (rounded). *See* U.S. Department of Labor, Bureau of Labor Statistics, Economic News Release, *Employer Cost for Employee Compensation (December 2020), Table 1. Employer Costs for Employee Compensation by ownership* (Dec. 2020), *https://www.bls.gov/news.release/archives/ecec_03182021.pdf* (last visited March 31, 2021).

[37] Calculation of weighted mean hourly wage for lawyers: $103.81 average hourly total rate of compensation for lawyers = $71.59 average hourly wage rate for lawyers × 1.45 benefits-to-wage multiplier.

[38] Calculation: (Effective Wage) $103.81 × (Estimated Opportunity of Cost to file Form I–360) 2.08 = $215.92.

$178.98 [39] to approximate an hourly billing rate for an outsourced lawyer.[40] Therefore, DHS estimates that the opportunity cost for each petitioner is $372.28 per response for the out sourced attorney.[41]

DHS uses the historical Form G–28 filings of 95.8 percent (Table 7) by attorneys or accredited representatives accompanying SIJ petitions as a proxy for how many may accompany Form I–485 petitions. The remaining 4.2 percent [42] of SIJ petitions are filed without a Form G–28. Table 11 shows the total receipts split out by the type of filer based on associated Form G–28 submissions.

TABLE 8—NUMBER OF FORMS FILED BY PETITIONERS AND ACCREDITED REPRESENTATIVES

Fiscal year	Receipts	Number of forms filed by petitioners (4.2%)	Number of forms filed by accredited by legal representation (95.8%)
2008	1,137	48	1,089
2009	1,369	57	1,312
2010	1,646	69	1,577
2011	2,226	93	2,133
2012	2,967	125	2,842
2013	3,996	168	3,828
2014	5,815	244	5,571
2015	11,528	484	11,044
2016	19,572	822	18,750
2017	22,154	930	21,224
2018	21,899	920	20,979
2019	20,783	873	19,910
2020	18,788	789	17,999

Source: USCIS, Office of Policy and Strategy (OP&S), Policy Research Division (PRD), Claims 3 database. March 5, 2021 & USCIS Analysis.

DHS does not know what caused the increase in receipts over the past 13 years. The increase in receipts could be due to TVPRA 2008 or it could be a result of a number of other things outside the scope of this rulemaking.

DHS does not know how many petitioners used an in-house lawyer compared to an outsourced lawyer, so both estimates are shown in Table 9. The table shows the range of total cost incurred since TVPRA 2008 changes. The total cost to petitioners since TVPRA 2008 range from a minimum of $236,845 [43] in FY 2008 to a maximum of $7,934,370 [44] in FY 2017.

TABLE 9—RANGE OF POTENTIAL TOTAL COSTS FOR FILERS BY TYPE AND BY YEAR

Fiscal year	Forms filed by petitioner	Forms filed by accredited by legal representation	Total cost for petitioners ($35.59/each)	Total cost for in-house attorney ($215.92/each)	Total cost for an outsourced attorney ($372.28/each)
2008	48	1,089	$1,708	$235,137	$405,413
2009	57	1,312	2,029	283,287	488,431
2010	69	1,577	2,456	340,506	587,086
2011	93	2,133	3,310	460,557	794,073
2012	125	2,842	4,449	613,645	1,058,020
2013	168	3,828	5,979	826,542	1,425,088
2014	244	5,571	8,684	1,202,890	2,073,972
2015	484	11,044	17,226	2,384,620	4,111,460
2016	822	18,750	29,255	4,048,500	6,980,250
2017	930	21,224	33,099	4,582,686	7,901,271
2018	920	20,979	32,743	4,529,786	7,810,062
2019	873	19,910	31,070	4,298,967	7,412,095
2020	789	17,999	28,081	3,886,344	6,700,668

Source: USCIS, Office of Policy and Strategy (OP&S), Policy Research Division (PRD), Claims 3 database. March 5, 2021 & USCIS Analysis.

[39] The DHS analysis in, ''Exercise of Time-Limited Authority to Increase the Fiscal Year 2018 Numerical Limitation for the H–2B Temporary Nonagricultural Worker Program'' (May 31, 2018), available at *https://www.federalregister.gov/documents/2018/05/31/2018-11732/exercise-of-time-limited-authority-to-increase-the-fiscal-year-2018-numerical-limitation-for-the,* used a multiplier of 2.5 to convert in-house attorney wages to the cost of outsourced attorney wages (Last visited July 28, 2021). Also, the analysis in the DHS ICE rule, ''Final Small Entity Impact Analysis: Safe-Harbor Procedures for Employers Who Receive a No-Match Letter'' at G–4 (Aug 25, 2008), available at *http://www.regulations.gov/#!documentDetail;D=ICEB-2006-0004-0922* used 2.5 as a multiplier for outsourced labor wages in this rule, pages 143–144.

[40] Calculation: (Mean hourly wage of Lawyers) $71.59 × (Benefits-to-wage multiplier) 2.5 = $178.98 per hour for an outsourced lawyer.

[41] Calculation: (Effective Wage) $178.98 × (Estimated Opportunity of Cost to file Form I–360) 2.08 hours = $372.28.

[42] Calculation: 100 percent − 95.8 percent filing with Form G–28 = 4.2 percent only filing Form I–360.

[43] Total Cost in 2008 ($1,708) + Total Cost for In-house Attorney in 2008 ($235,137) = $236,845 minimum cost in 2008.

[44] Total Cost in 2017 ($33,099) + Total Cost for Outsourced Attorney in 2017 ($7,901,271) = $7,934,370 maximum cost in 2017.

ii. Form I–485, Application To Register Permanent Residence or Adjust Status

To obtain permanent residence as a SIJ, a noncitizen must file a Form I–485, Application to Register Permanent Residence or Adjust Status. If an immigrant visa is not available at the time of filing, the applicant will not be able to apply until such a visa becomes available. SIJs are not exempt from the general adjustment requirement that applicants be inspected and admitted or inspected and paroled. *See* INA 245(a); 8 CFR 245.1(e)(3). However, a noncitizen filing an adjustment of status application based on an approved SIJ petition is considered paroled into the United States for the limited purpose of adjustment under INA 245(a). Accordingly, the beneficiary of an approved SIJ petition is treated for purposes of the adjustment application as if the beneficiary has been paroled, regardless of his or her manner of arrival in the United States. *See* INA 245(h)(1). Because DHS is unable to describe the nationality and other circumstances of the affected population, it is not possible to quantify if or when individuals affected by the rule will file a Form I–485 based on the pre statutory baseline.

The reported burden to the petitioners estimated for collection of information and completion for the Form I–485 [45] is 6 hours and 42 minutes (6.70 hours). Form I–485 has a fee of $1,140, with certain applicants under the age of 14 years old pay a fee of $750 for Form I–485.

DHS is unaware of the quantity of petitioners that went on to file Form I–485 after TVPRA 2008; however, DHS estimates that the estimated opportunity cost per person filing Form I–485 is $114.64.[46] SIJ applicants for adjustment of status are eligible to submit Form I–912, Request for Fee Waiver. The total cost for a petitioner to file Form I–485 would be $864.64 if they are under the age of 14 years and $1,254.64 for those 14 years and older.

iii. Form I–601, Application for Waiver of Grounds of Inadmissibility

Applicants for adjustment of status based on SIJ classification who are inadmissible under certain grounds may seek a waiver of inadmissibility via Form I–601, Application for Waiver of Grounds of Inadmissibility. The time burden for Form I–601 is estimated at 1 hour and 45 minutes [47] (1.75 hours) per application.

DHS is unaware of the quantity of petitioners that went on to file Form I–601 after changes to TVPRA 2008. The estimated opportunity cost per person filing is estimated at $29.94.[48] Form I–601 has a filing fee of $930, for those to whom it applies; however, SIJ applicants for adjustment of status are eligible to submit Form I–912, Request for Fee Waiver. The total cost for a petitioner to file Form I–601 would be $959.94 [49] based on the pre statutory baseline.

iv. Form I–765, Application for Employment Authorization

The affected population of newly eligible SIJ classified individuals who have filed a Form I–485, may go on to file a Form I–765, to apply for an Employment Authorization Document (EAD). Because the rule does not obligate SIJ classified individuals to seek employment authorization and it is not known what portion of the affected population have gone on to apply for an EAD due to TVPRA 2008, DHS does not know the number of SIJ classified individuals who went on to file Form I–765; therefore, DHS cannot estimate the total cost for the pre statutory baseline and only shows the per unit cost. The fee of $410.00 for Form I–765 is not shown as a cost of this rule. The public reporting burden for the collection of information for Form I–765 is estimated at 4 hours and 45 minutes (4.75 hours) per response.[50] USCIS uses an average total rate of compensation based on the effective minimum wage for SIJ petitioners, as explained previously. This amounts to an estimated opportunity cost of $81.27 per response for applications.[51] The total cost for a petitioner to file Form I–765 would be $491.27.

v. Form I–912, Request for Fee Waiver

Form I–912 is used to request a fee waiver for certain immigration forms and services based on a demonstrated inability to pay. Applicants submitting Form I–485, Application to Register Permanent Residence or Adjust Status, Form I–601, Application for Waiver of Grounds of Inadmissibility and Form I–765, Application for Employment Authorization are eligible to seek a fee waiver if they are applying for lawful permanent resident status based on SIJ classification.

DHS did not track how many SIJ petitioners successfully requested fee waivers due to the TVPRA 2008 changes, but anticipates that most of them qualify based on income or hardship. Thus, the analysis presents only opportunity costs for the related forms some of the noncitizens eligible for SIJ under the proposed rule may choose to file. Because DHS does not know the number of SIJ classified individuals who went on to file Form I–912 for subsequent immigration benefit requests, DHS cannot estimate the total cost for the pre statutory baseline and only shows the per unit cost.

The public reporting burden for this collection of information for this form is estimated at 2 hours and 33 minutes (2.55 hours) per response, including the time for reviewing instructions, gathering the required documentation and information, completing the request, preparing statements, attaching necessary documentation, and submitting the request.[52] As explained above, USCIS uses an average total rate of compensation based on the effective minimum wage for SIJ petitioners. Multiplying the fully-loaded hourly wage rate of $17.11 by the burden of 2 hours and 33 minutes (2.55 hours) equals an estimated opportunity cost of $43.63 for SIJ applicants requesting a fee waiver using Form I–912 based on the pre statutory baseline.[53]

(b) Costs and Benefits of the Final Rule Relative to No Action Baseline

This final rule will impose new costs on the population of juvenile immigrants granted SIJ classification who choose to marry prior to filing Form I–485 to register as a permanent resident. It will also allow SIJs who are inadmissible under INA sections 212(a)(2)(A), (B) and (C) because of a single offense of simple possession of 30 grams or less of marijuana to be eligible to apply for a waiver of inadmissibility

[45] *See* Instructions for Instructions for Application to Register Permanent Residence or Adjust Status. Form I–485. OMB No. 1615–0023. Expires March 31, 2023. Accessed *https://www.uscis.gov/sites/default/files/document/forms/i-485instr.pdf* (last visited March 22, 2021).

[47] *See* Instructions for Application for Waiver of Grounds of Inadmissibility. Form I–601. OMB No. 1615–0029. Expires July 31, 2021. Accessed at *https://www.uscis.gov/sites/default/files/document/forms/i-601instr-pc.pdf* (last visited March 22, 2021).

[48] Calculation: (Fully-loaded Effective Wage) $17.11 × (Estimated Opportunity Cost to file Form I–601) = $17.11 × 1.75 = $29.94.

[49] Calculation: Estimated opportunity cost per person filing ($29.94) + Fee for Form I–601 ($930) = $959.94

[50] *See* Instructions for Application for Employment Authorization. Form I–765. OMB No. 1615–0040. Expires July 31, 2022. Accessed at *https://www.uscis.gov/sites/default/files/document/forms/i-765instr.pdf* (last visited March 22, 2021).

[51] Calculation: (Effective wage) $17.11 × (Estimated Opportunity Cost to file Form I–765) = $17.11 × 4.75 = $81.27.

[52] See Instructions for Request for Fee Waiver. Form I–912. OMB No. 1615–0116. Expires 09/30/2024. Accessed at *https://www.uscis.gov/sites/default/files/document/forms/i-912instr.pdf* (last visited October 19, 2021).

[53] Calculation: (Fully-loaded Effective Wage) $17.11 × (Estimated Opportunity Cost to file Form I–912) 2.55 = $43.63.

by filing a Form I–601, Application for Waiver of Grounds of Inadmissibility. The cost of the final rule impacts SIJ beneficiaries who get married prior to applying for LPR status and those now eligible for adjustment of status with a minor drug related charge. The final rule will impose costs related to this population filing Form I–485 and Form I–601 in the no action baseline.

DHS expects the final rule to affect the following stakeholder groups: petitioners for SIJ classification; state juvenile courts and appellate courts; and the Federal Government.

i. Regulatory Provisions: The Petitioning-Adjudication Process

a. Form I–485, Application To Register Permanent Residence or Adjust Status

To obtain permanent residence as a SIJ, a noncitizen must file a Form I–485, Application to Register Permanent Residence or Adjust Status. If an immigrant visa is not available at the time of filing, the applicant will not be able to apply until such a visa becomes available.

In this final rule, DHS is no longer requiring that an approved Form I–360 petition be automatically revoked if the beneficiary marries prior to applying for or being approved for adjustment of status to lawful permanent resident. To estimate the population that will be affected by removing the revocation based on marriage provision, DHS analyzed historical data on the ages of petitioners who received revocations. DHS assumes that those who filed for SIJ under the age of 15 would likely not have had their petitions revoked based on marriage. DHS also assumes that revocations for those who filed at 21 or older may have been based on having been approved in error due to having filed after turning 21. Using the data from Table 10, DHS estimates the 5-year average for the newly eligible population to be 16 petitioners annually. DHS does not know the specific reason each petition was revoked and does not rule out the possibility that all or none of these petitions were revoked due to marriage. For the purpose of this analysis, DHS presents an upper bound of 16 petitions and a lower bound of zero petitions annually who will now be eligible to apply for LPR status. Filing Form I–485 is included as a direct, quantified cost of this final rule for the population of SIJ beneficiaries who will not be revoked due to marriage.

TABLE 10—NUMBER OF FORM I–360 PETITIONS REVOKED BY AGE, FOR FY 2016 THROUGH FY 2020

Fiscal year	Age range			Total
	0–15	16–20	21+	
2016	21	59	19	99
2017	4	14	5	23
2018	0	6	0	6
2019	1	2	0	3
2020	0	0	1	1
Total	26	81	25	132
5-year Annual Average	5	16	5	26

Source: USCIS, Office of Policy and Strategy (OP&S), Policy Research Division (PRD), Claims 3 database. March 5, 2021 & USCIS Analysis.

This rule will allow approved SIJ beneficiaries who get married prior to applying for LPR status and remain eligible to obtain permanent residence. DHS assumes that every petitioner who will be newly eligible will file Form I–485 which will lead to new costs (and benefits) to those petitioners. For those who acquire legal representation to petition on their behalf, Form G–28 must be filed in addition to Form I–485. DHS does not know the number of SIJ's who then went on to submit Form I–485 petitions that would be accompanied by Form G–28.

For petitioners who acquire attorneys or accredited representation to petition on their behalf, Form G–28 must be filed in addition to Form I–360. Table 11 shows historical Form G–28 filings by attorneys or accredited representatives accompanying SIJ petitions. DHS notes that these forms are not mutually exclusive. Based on the 5-year average, DHS estimates 95.8 percent [54] of Form I–360 petitions are filed with a Form G–28. The remaining 4.2 percent [55] of petitions are filed without a Form G–28.

TABLE 11—FORM I–360, SIJ PETITIONS SUBMITTED TO USCIS, FOR FY 2016 THROUGH FY 2020

Fiscal year	Number of Form I–360 receipts	Number of petitions filed with Form G–28
2016	19,572	17,830
2017	22,154	21,252
2018	21,899	21,306
2019	20,783	20,244
2020	18,788	18,221
Total	103,196	98,853
5-year Annual Average	20,639	19,771

Source: USCIS, Office of Policy and Strategy (OP&S), Policy Research Division (PRD), Claims 3 database. March. 5, 2021 & USCIS Analysis.

[54] Calculation: (19,771 Form G–28/20,639 Form I–360 petitions) × 100 = 95.8 percent (rounded).

[55] Calculation: 100 percent − 95.8 percent filing with Form G–28 = 4.2 percent only filing Form I–360.

DHS estimates the opportunity cost of time for attorneys or accredited representatives using an average hourly wage rate $71.59 for lawyers.[56] However, average hourly wage rates do not account for worker benefits such as paid leave, insurance, and retirement. DHS accounts for worker benefits when estimating the opportunity cost of time by calculating a benefits-to-wage multiplier using the most recent Department of Labor (DOL), Bureau of Labor Statistics (BLS) report detailing average compensation for all civilian workers in major occupational groups and industries. DHS estimates the benefits-to-wage multiplier is 1.45.[57] DHS calculates the average total rate of compensation as $103.81 [58] per hour for a lawyer.

To estimate the opportunity costs of time for applicants who are not using an attorney or accredited representative, USCIS uses the fully-loaded prevailing minimum wage rate is $17.11 as previously discussed.

DHS uses the historical Form G–28 filings of 95.8 percent (Table 8) by attorneys or accredited representatives accompanying SIJ petitions as a proxy for how many may accompany Form I–485 petitions. The remaining 4.2 percent [59] of SIJ petitions are filed without a Form G–28. DHS estimates that a maximum 15 [60] petitions annually would be filed with a Form G–28 and 1 [61] petition would be filed by the petitioner.

To estimate the opportunity cost of time to file Form I–485, DHS applies the estimated public reporting time burden (6.70 hours [62]) to the newly eligible population and compensation rate of who may file the form. Therefore, for those newly eligible, as shown in Table 12, DHS estimates the total annual opportunity cost of time to petitioners completing and filing Form I–485 petitions will be approximately $10,433 [63] for lawyers and $115 [64] for petitioners who submit on their own application. For attorneys or accredited representatives, an additional opportunity cost of time of 0.83 hours is applied per Form I–485 application.[65] As shown in Table 12, DHS estimates the total annual opportunity cost of time to petitioners completing and filing Form G–28 will be a maximum of approximately $1,292 [66] for attorneys or accredited representatives. The opportunity cost of time to the newly eligible population to complete and file Form I–485 and Form G–28 is $11,840 (Table 9). DHS is unaware of the number of SIJ applicants who would also apply for Form I–912, Request for Fee Waiver. DHS estimates that the maximum filing cost the new population to file Form I–485 is $18,240 [67] if all newly eligible petitioners pay the full filing fee. The total cost to the newly eligible population to complete and file Form I–485 and Form G–28, where applicable is $30,080.[68]

TABLE 12—ADDITIONAL OPPORTUNITY COSTS OF TIME TO PETITIONERS FOR FILING FORM I–485 PETITIONS

Petitioner type	Affected population	Time burden to complete Form I–485 (hours)	Time burden to complete Form G–28 (hours)	Compensation rate	Total opportunity cost
	A	B	C	D	E = A × (B + C) × D
Attorney or Accredited Representative	15	6.70	0.83	$103.81	$11,725
Petitioner	1	6.70		17.11	115
Total	16				11,840

Source: USCIS analysis.

b. Form I–601, Application for Waiver of Grounds of Inadmissibility

Applicants for adjustment of status based on SIJ classification who are inadmissible under certain grounds may seek a waiver of inadmissibility via Form I–601, Application for Waiver of Grounds of Inadmissibility. The time burden for Form I–601 is estimated at 1 hour and 45 minutes [69] (1.75 hours) per application.

In this final rule, DHS has expanded application of the ''simple possession exception'' to certain grounds of inadmissibility as a result of a recent Board of Immigration Appeals decision in *Matter of Moradel,* which conducted a statutory analysis of the scope of the simple possession exception under INA section 245(h)(2)(B) and concluded that it ''applies to all of the provisions listed under section 212(a)(2).'' 28 I&N Dec. 310, 314–315 (BIA 2021). This change

[56] *See* U.S. Department of Labor, Bureau of Labor Statistics, Occupational Employment Statistics, May 2020 National Occupational Employment and Wage Estimates-National, *SOC 23–1011—Lawyers, https://www.bls.gov/oes/2020/may/oes_nat.htm* (last visited March 31, 2021).

[57] The benefits-to-wage multiplier is calculated as follows: ($38.60 Total Employee Compensation per hour)/($26.53 Wages and Salaries per hour) = 1.454964 = 1.45 (rounded). *See* U.S. Department of Labor, Bureau of Labor Statistics, Economic News Release, *Employer Cost for Employee Compensation (December 2020), Table 1. Employer Costs for Employee Compensation by ownership* (Dec. 2020), *https://www.bls.gov/news.release/archives/ecec_03182021.pdf* (last visited March 31, 2021).

[58] Calculation of weighted mean hourly wage for lawyers: $103.81 average hourly total rate of compensation for lawyers = $71.59 average hourly wage rate for lawyers × 1.45 benefits-to-wage multiplier.

[59] Calculation: 100 percent − 95.8 percent filing with Form G–28 = 4.2 percent only filing Form I–360.

[60] Calculation: (95.8 percent × 16 newly eligible population) = 15 new population filing Forms I–485 and G–28.

[61] Calculation: (4.2 percent × 16 newly eligible population) = 1 new population filing only Form I–485

[62] *See* Instructions for Application to Register Permanent Residence or Adjust Status. Form I–485. OMB No. 1615–0023. Expires Sept. 30, 2021. Accessed at *https://www.uscis.gov/sites/default/files/document/forms/i-485instr.pdf* (last visited March 22, 2021).

[63] Calculation: (15 new population filing Forms I–485 and G–28) × (6.70 Time Burden to Complete Form I–360) × ($103.81 Compensation Rate of a Lawyer) = $10,433.

[64] Calculation: (1 new population filing Form I–485) × (6.70 Time Burden to Complete Form I–485) × ($17.11 Compensation Rate of a Petitioner) = $115.

[65] *See* Instructions for Notice of Entry of Appearance as Attorney or Accredited Representative. Form G–28. OMB No. 1615–0105. Expires May 31, 2021. Accessed at *https://www.uscis.gov/sites/default/files/document/forms/g-28instr.pdf* (last visited March 22, 2021).

[66] Calculation: (15 new population filing Forms I–485 and G–28) × (0.83 Time Burden to Complete Form G–28) × ($103.81 Compensation Rate of a Lawyer) = $1,292.

[67] Calculation: (16 Total population) × ($1,140 Filing Fee Cost per Form I–485) = $18,240.

[68] Calculation: ($18,240 Filing Fees) + ($11,840 Opportunity Cost of Time) = $30,080 Total Cost.

[69] *See* Instructions for Application for Waiver of Grounds of Inadmissibility. Form I–601. OMB No. 1615–0029. Expires July 31, 2021. Accessed at *https://www.uscis.gov/sites/default/files/document/forms/i-601instr-pc.pdf* (last visited March 22, 2021).

will allow SIJs who are inadmissible under INA sections 212(a)(2)(A), (B) and (C) because of a single offense of simple possession of 30 grams or less of marijuana to be eligible to apply for a waiver of inadmissibility by filing a Form I–601, Application for Waiver of Grounds of Inadmissibility. To estimate the population that will be affected by expanding eligibility for those with simple possession offenses to file a waiver of inadmissibility, DHS analyzed historical data on the denials of SIJ petitioners who applied for Form I–601. DHS does not know the specific reason each application was denied. DHS does not rule out the possibility that all or none of these petitions were denied due to simple possession offenses. DHS presents an upper bound of 4 petitions and a lower bound of zero petitions annually who may now be eligible to receive an approved Form I–601 shown in Table 13.

TABLE 13—FORM I–601 CASES DENIED AFTER BEING APPROVED FOR A SIJ CLASSIFICATION

[For FY 2016 through FY 2021]

I–601 Adjudicated fiscal year	Approved ** SIJ with a denied I–601
2016	2
2017	1
2018	5
2019	3
2020	11
2021 *	6
Total	28
5-year Annual Average ***	4

Note: The report reflects the most up-to-date data available at the time the system was queried. Database Queried: July 22, 2021, System: USCIS Claims 3 database, Office of Policy and Strategy (OP&S), Policy Research Division (PRD), The data reflect the current status of the petitions received in each fiscal year.

* *Data for FY 2021 valid only through 07/22/2021.*

** *As of* July 22, 2021, *SIJ cases still show a Current Approved Status.*

*** *5-year average is based on FY 2016 through FY 2020.*

DHS uses the historical Form G–28 filings of 95.8 percent of Form I–360 (Table 8) by attorneys or accredited representatives accompanying SIJ petitions as a proxy for how many may accompany Form I–601 applications. The remaining 4.2 percent [70] of Forms I–601 would be filed without a Form G–28. DHS estimates that a maximum 4 [71] Forms I–601 annually would be filed with a Form G–28 and 0 [72] petition would be filed by the petitioner.

To estimate the opportunity cost of time to complete and file Form I–601, DHS applies the time burden (1.75 hours) [73] to the newly eligible population and compensation rate of who may file. If an attorney or accredited representative files on behalf of the beneficiary, a Form G–28 would be filed with a time burden of 0.83 hours.[74] As shown in Table 14, DHS estimates the total annual opportunity cost of time to the newly eligible population to complete and file Form I–601 and Form G–28 is $1,071. The estimated filing fees for the new population to file Form I–601 is $3,720.[75] Therefore, the total cost to the newly eligible population to complete and file Form I–601 and accompanying Form G–28 is a $4,791.[76]

[70] Calculation: 100 percent − 95.8 percent filing with Form G–28 = 4.2 percent only filing Form I–360.

[71] Calculation: (95.8 percent × 4 newly eligible population) = 4 new population filing Forms I–601 and G–28.

[72] Calculation: (4.2 percent × 4 newly eligible population) = 0 new population filing only Form I–601.

[73] *See* Instructions for Application for Waiver of Grounds of Inadmissibility. Form I–601. OMB No. 1615–0029. Expires July 31, 2021. Accessed at *https://www.uscis.gov/sites/default/files/document/forms/i-601instr-pc.pdf* (last visited March 22, 2021).

[74] *See* Instructions for Notice of Entry of Appearance as Attorney or Accredited Representative. Form G–28. OMB No. 1615–0105. Expires May 31, 2021. Accessed at *https://www.uscis.gov/sites/default/files/document/forms/g-28instr.pdf* (last visited March 22, 2021).

[75] Calculation: (4 Total population) × ($930 Cost to File) = $3,720.

[76] Calculation: ($3,720 Filing Fees) + ($1,071 Opportunity Cost of Time) = $4,791 Total Cost.

TABLE 14—ADDITIONAL OPPORTUNITY COSTS OF TIME TO PETITIONERS FOR FILING FORM I–601 APPLICATIONS

Petitioner type	Affected population	Time burden to complete Form I–601 (hours)	Time burden to complete Form G–28 (hours)	Compensation rate	Total opportunity cost
	A	B	C	D	E = A × (B + C) × D
Lawyer	4	1.75	0.83	$103.81	$1,071
Total	4				1,071

Source: USCIS analysis.

DHS includes Form I–601 [77] as a cost of this final rule for the new population that may be eligible for approval under the no action baseline.

ii. Qualitative Benefits to Petitioners

Benefits to petitioners are largely qualitative. The eligibility provisions offer an increased protection and quality of life for petitioners. By allowing reunification with non-abusive parents, the rule serves the child welfare goal of family permanency. By clarifying the requirements for qualifying juvenile court orders, the regulation will not require petitioners to provide evidence of the juvenile court's continuing jurisdiction in certain circumstances, such as when a child welfare permanency goal is reached, such as adoption. *See* new 8 CFR 204.11(c)(3)(ii)(A).

DHS has removed marriage of the SIJ beneficiary as a basis for automatic revocation. Currently, certain individuals with an approved SIJ petition have to wait as long as two or more years to be eligible to file for adjustment of status due to the lack of immigrant visa availability for nationals of certain countries in the EB–4 category.[78] This change is a benefit to petitioners, so they can remain eligible for lawful permanent residence and do not have to put marriage on hold.

The procedural changes to 8 CFR 204.11 to provide a timeframe for the adjudication process both clarify the requirements for petitioning for SIJ classification (streamlining consent, explaining documentation, outlining the interview, setting timeframe) and reduce the hurdles to successfully adjusting to LPR status once SIJ classification has been granted (incorporating expanded grounds for waivers of inadmissibility). Further, the rule centralizes and makes explicit the barriers from contact with alleged abusers to which the petitioner is entitled.

DHS has expanded the simple possession exception in this rule. Currently those who have been approved for SIJ classification with a simple possession offense and apply for a waiver of grounds of inadmissibility may have their application denied because they are ineligible for the waiver. This modification may allow them the chance to remain eligible for lawful permanent residence.

DHS acknowledges that SIJ petitioners may pursue subsequent actions discussed above, such as adjusting status and applying for employment authorization, which may enable additional earnings over their lifetime. However, DHS is does not quantify those impacts to the affected juvenile population in this rule.

iii. Benefits to Federal Government

The primary benefits of the rule to DHS are greater consistency with statutory intent and increased efficiency. Externally, congruence of statute and regulation lessens ambiguity and requires fewer resources to be spent on guidance to the regulated community. Internally, the regulations provide a clearer standard for adjudications, including what evidence is required for consent and similar basis determinations.

iv. Alternatives Considered

Where possible, DHS has considered, and incorporated alternatives to maximize net benefits under the rule. For example, DHS considered an alternative to the final rule following the review of public comment and decided to incorporate a clarification on how a petitioner can establish that the juvenile court made a qualifying determination that parental reunification is not viable under State law based on a *similar basis* to the statutorily enumerated grounds of abuse, neglect, or abandonment. As discussed, DHS incorporated options for petitioners to submit evidence that would not place an additional burden on them, such as the juvenile court's determinations or other relevant evidence that establishes the juvenile court made a judicial determination that the legal basis is similar to abuse, neglect, or abandonment under State law. This alternative was adopted in response to public comments requesting further clarification to minimize the risk of inadvertent ineligibility based on differences between States' laws and judicial systems.

(c) Total Costs of the Final Rule

In this section, DHS presents the total annual costs of this final rule. Table 15 details the total annual costs of this final rule to petitioners will be $34,871 under the no action baseline.

TABLE 15—SUMMARY OF ESTIMATED ANNUAL COSTS TO NEW PETITIONERS IN THIS FINAL RULE—NO ACTION BASELINE

Total costs of filing	Total estimated annual cost
Form I–485	$30,080
Form I–601	4,791
Total Annual Cost (undiscounted)	34,871

[77] *See* Instructions for Application for Waiver of Grounds of Inadmissibility. Form I–601. OMB No. 1615–0029. Expires July 31, 2021. Accessed at *https://www.uscis.gov/sites/default/files/document/forms/i-601instr-pc.pdf* (last visited March 22, 2021).

[78] *See* U.S. Department of State, *Visa Bulletin for September 2021, https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin/2021/visa-bulletin-for-september-2021.html* (listing the final action dates for nationals of El Salvador, Guatemala, and Honduras as March 15, 2019).

Table 16 shows the cost over the 10-year implementation period of this final rule, DHS estimates the total annualized cost to be is $34,871 undiscounted in the first year, $33,855 discounted at 3-percent and $32,590 discounted at 7-percent. The total cost estimates are based on the no action baseline. The total cost to petitioners in the pre statutory baseline ranges from a minimum of $236,845 [79] in FY 2008 to a maximum of $7,934,370 [80] in FY 2017.

TABLE 16—TOTAL UNDISCOUNTED AND DISCOUNTED COSTS OF THIS FINAL RULE—NO ACTION BASELINE

Year	Total estimated costs $34,871 (undiscounted)	
	Discounted at 3-percent	Discounted at 7-percent
1	$33,855	$32,590
2	32,869	30,458
3	31,912	28,465
4	30,982	26,603
5	30,080	24,863
6	29,204	23,236
7	28,353	21,716
8	27,527	20,295
9	26,726	18,968
10	25,947	17,727
Total	297,457	244,919
Annualized Cost	34,871	34,871

B. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, (Mar. 29, 1996), requires Federal agencies to consider the potential impact of regulations on small businesses, small governmental jurisdictions, and small organizations during the development of their rules. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, or governmental jurisdictions with populations of less than 50,000.[81]

The statutory foundation for the SIJ classification program, administered by USCIS, has changed over time. In this final rule, DHS will strengthen regulations by codifying its long-standing policies and practices already in place having an impact on the eligibility of SIJ petitioners and the process of filing. This final rule primarily seeks to resolve these discrepancies by making necessary changes. Approval of SIJ petitions requires a petitioner to meet a number of specified eligibility criteria and petition requirements in new 8 CFR 204.11(b), (c) and (d).

Therefore, this final rule regulates individuals and individuals are not defined as a ''small entity'' by the RFA. Based on the evidence presented in this RFA and throughout this preamble, DHS certifies that this rule will not have a significant economic impact on a substantial number of small entities.

C. Small Business Regulatory Enforcement Fairness Act of 1996

This final rule is not a major rule as defined by section 804 of Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA). This final rule likely will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

D. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (UMRA) is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments. Title II of UMRA requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may directly result in a $100 million or more expenditure (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector.[82] The inflation-adjusted value of $100 million in 1995 is approximately $178 million in 2021 based on the Consumer Price Index for All Urban Consumers (CPI–U).[83]

This final rule does not contain such a mandate as the term is defined under UMRA.[84] The requirements of title II of UMRA, therefore, do not apply, and DHS has not prepared a statement under UMRA.

[79] Total Cost in 2008 ($1,708) + Total Cost for In-house Attorney in 2008 ($235,137) = $236,845 minimum cost in 2008.

[80] Total Cost in 2017 ($33,099) + Total Cost for Outsourced Attorney in 2017 ($7,901,271) = $7,934,370 maximum cost in 2017.

[81] A small business is defined as any independently owned and operated business not dominant in its field that qualifies as a small business per the Small Business Act, 15 U.S.C. 632.

[82] *See* U.S. Department of Labor, BLS, ''Historical Consumer Price Index for All Urban Consumers (CPI–U): U.S. city average, all items, by month,'' available at *https://www.bls.gov/cpi/tables/supplemental-files/historical-cpi-u-202112.pdf* (last visited Jan. 13, 2022).

[83] Calculation of inflation: (1) Calculate the average monthly CPI–U for the reference year (1995) and the current year (2021); (2) Subtract reference year CPI–U from current year CPI–U; (3) Divide the difference of the reference year CPI–U and current year CPI–U by the reference year CPI–U; (4) Multiply by 100 = [(Average monthly CPI–U for 2021 − Average monthly CPI–U for 1995)/(Average monthly CPI–U for 1995)] * 100 = [(270.970 − 152.383)/152.383] * 100 = (118.587/152.383) * 100 = 0.77821673 * 100 = 77.82 percent = 78 percent (rounded). Calculation of inflation-adjusted value: $100 million in 1995 dollars * 1.78 = $178 million in 2021 dollars.

[84] The term ''Federal mandate'' means a Federal intergovernmental mandate or a Federal private sector mandate. See 2 U.S.C. 1502(1), 658(6).

E. Congressional Review Act

The Office of Information and Regulatory Affairs has determined that this final rule is not a major rule, as defined by 5 U.S.C. 804, for purposes of congressional review of agency rulemaking pursuant to the Congressional Review Act, Public Law 104–121, sec. 251, 110 Stat. 868, 873 (codified at 5 U.S.C. 804). This rule will not result in an annual effect on the economy of $100 million or more.

Accordingly, absent exceptional circumstances, this rule will have a delayed effective date of 30 days. DHS has complied with the CRA's reporting requirements and has sent this final rule to Congress and to the Comptroller General as required by 5 U.S.C. 801(a)(1).

F. Executive Order 13132 (Federalism)

This final rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. DHS does not expect this rule would impose substantial direct compliance costs on State and local governments or preempt State law. As stated above, neither the proposed rule nor this final rule modify the extent of State involvement set by statute. INA section 101(a)(27)(J), 8 U.S.C. 1101(a)(27)(J) (''who has been declared dependent on a juvenile court located in the United States . . . and in whose case the Secretary of Homeland Security consents to the grant of special immigrant juvenile status.''). State courts rightfully grant relief from abuse, neglect, abandonment, or some similar basis under State law, but they have no role in determining or granting immigration status within the United States. Therefore, in accordance with section 6 of E.O. 13132, it is determined this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

G. Executive Order 12988 (Civil Justice Reform)

This final rule meets the applicable standards set forth in section 3(a) and (b)(2) of E.O. 12988.

H. Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments)

This final rule does not have ''tribal implications'' because it does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. Accordingly, E.O. 13175, Consultation and Coordination with Indian Tribal Governments, requires no further agency action or analysis.

I. Family Assessment

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. Agencies must assess whether the regulatory action: (1) Impacts the stability or safety of the family, particularly in terms of marital commitment; (2) impacts the authority of parents in the education, nurture, and supervision of their children; (3) helps the family perform its functions; (4) affects disposable income or poverty of families and children; (5) financially impacts families, and whether those impacts are justified; (6) may be carried out by State or local government or by the family; and (7) establishes a policy concerning the relationship between the behavior and personal responsibility of youth and the norms of society. If the determination is affirmative, then the agency must prepare an impact assessment to address criteria specified in the law. As discussed in the proposed rule,[85] DHS assessed this action in accordance with the criteria specified by section 654(c)(1). This final rule will continue to enhance family well-being by aligning the regulation more closely with the statute. Accordingly, the rule will continue to enable juvenile noncitizens who have been abused, neglected, or abandoned and placed in State custody by a juvenile court to obtain special immigrant classification, and continue to enable these juveniles to be placed into more stable, permanent home environments and release them from reliance on their abusers.

J. National Environmental Policy Act

DHS analyzes actions to determine whether the National Environmental Policy Act (NEPA) applies to them and, if so, what degree of analysis is required. DHS Directive 023–01, Revision 01, ''Implementation of the National Environmental Policy Act,'' and DHS Instruction Manual 023–01–001–01, Revision 01, ''Implementation of the National Environmental Policy Act (NEPA)'' (Instruction Manual), establish the procedures DHS and its components use to comply with NEPA and the Council on Environmental Quality (CEQ) regulations for implementing NEPA codified at 40 CFR parts 1500 through 1508.

The CEQ regulations allow Federal agencies to establish, with CEQ review and concurrence, categories of actions (''categorical exclusions'') that experience has shown do not individually or cumulatively have a significant effect on the human environment and, therefore, do not require an Environmental Assessment or Environmental Impact Statement. 40 CFR 1501.4 and 1507.3(e)(2)(ii). The DHS categorical exclusions are listed in Appendix A of the Instruction Manual. For an action to be categorically excluded, it must satisfy each of the following three conditions: (1) The entire action clearly fits within one or more of the categorical exclusions; (2) the action is not a piece of a larger action; and (3) no extraordinary circumstances exist that demonstrate, or create the potential for, significant environmental impacts. Instruction Manual, section V.B(2)(a–c).

This action amends existing regulations governing requirements and procedures for juveniles seeking SIJ classification. Specifically, the amendments update regulations codified in 8 CFR 204.11, 205.1, and 245.1 to reflect the statutory text and make other programmatic clarifications. The amendments codify changes required by law, clarify the definitions of ''juvenile court'' and ''judicial determination,'' what constitutes a qualifying juvenile court order and parental reunification determination, DHS's consent function, and bars to adjustment, inadmissibility grounds, and waivers for SIJ-based adjustment to LPR status. In addition, the amendments remove bases for automatic revocation that are inconsistent with the statutory requirements of the TVPRA 2008 and make other technical and procedural changes. The amended regulations codify and clarify eligibility criteria and will have no impact on the overall population of the U.S. and will not increase the number of immigrants allowed into the U.S.

DHS analyzed the proposed amendments and has determined that this action clearly fits within categorical exclusion A3(a) in Appendix A of the Instruction Manual because the regulations being promulgated are of a strictly administrative or procedural nature. DHS has also determined that this action clearly fits within categorical exclusion A3(d) because it amends existing regulations without changing their environmental effect. This final

[85] *See* USCIS, ''Special Immigrant Juvenile Petitions,'' Proposed Rule, 76 FR 54978, 54984–95 (Sep. 6, 2011).

rule is not part of a larger action and presents no extraordinary circumstances creating the potential for significant environmental effects. Therefore, this final rule is categorically excluded from further NEPA review.

K. Paperwork Reduction Act

This rule requires that DHS make nonsubstantive edits to the instructions for Form I–360, Petition for Amerasian, Widow(er), or Special Immigrant (OMB Control No. 1615–0020), to require evidence in support of the ''judicial determinations'' instead of evidence in support of the juvenile's court's ''findings,'' and the instructions for Form I–601, Application for Waiver of Grounds of Inadmissibility (OMB Control No. 1615–0029) to incorporate the expanded application of the simple possession exception to the grounds of inadmissibility under INA section 212(a)(2)(A), 8 U.S.C. 1182(a)(2)(A) (conviction of certain crimes) and INA section 212(a)(2)(B), 8 U.S.C. 1182(a)(2)(B) (multiple criminal convictions), in addition to the existing application of the exception of the simple possession exception at INA section 212(a)(2)(C), 8 U.S.C. 1182(a)(2)(C) (controlled substance traffickers). DHS has submitted a Paperwork Reduction Act Change Worksheet, Form OMB 83–C, and amended information collection instruments to OMB for review and approval in accordance with the PRA.

VI. List of Subjects and Regulatory Amendments

List of Subjects

8 CFR Part 204

Administrative practice and procedure, Immigration, Reporting and recordkeeping requirements.

8 CFR Part 205

Administrative practice and procedures, Immigration.

8 CFR Part 245

Aliens, Immigration, Reporting and recordkeeping requirements.

Accordingly, chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 204—IMMIGRANT PETITIONS

■ 1. The authority citation for part 204 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1151, 1153, 1154, 1182, 1184, 1186a, 1255, 1324a, 1641; 8 CFR part 2.

■ 2. Section 204.11 is revised to read as follows:

§ 204.11 Special immigrant juvenile classification.

(a) *Definitions.* As used in this section, the following definitions apply to a request for classification as a special immigrant juvenile.

Judicial determination means a conclusion of law made by a juvenile court.

Juvenile court means a court located in the United States that has jurisdiction under State law to make judicial determinations about the dependency and/or custody and care of juveniles.

Petition means the form designated by USCIS to request classification as a special immigrant juvenile and the act of filing the request.

Petitioner means the alien seeking special immigrant juvenile classification.

State means the definition set out in section 101(a)(36) of the Act, including an Indian tribe, tribal organization, or tribal consortium, operating a program under a plan approved under 42 U.S.C. 671.

United States means the definition set out in section 101(a)(38) of the Act.

(b) *Eligibility.* A petitioner is eligible for classification as a special immigrant juvenile under section 203(b)(4) of the Act as described at section 101(a)(27)(J) of the Act, if they meet all of the following requirements:

(1) Is under 21 years of age at the time of filing the petition;

(2) Is unmarried at the time of filing and adjudication;

(3) Is physically present in the United States;

(4) Is the subject of a juvenile court order(s) that meets the requirements under paragraph (c) of this section; and

(5) Obtains consent from the Secretary of Homeland Security to classification as a special immigrant juvenile. For USCIS to consent, the request for SIJ classification must be bona fide, which requires the petitioner to establish that a primary reason the required juvenile court determinations were sought was to obtain relief from parental abuse, neglect, abandonment, or a similar basis under State law. USCIS may withhold consent if evidence materially conflicts with the eligibility requirements in paragraph (b) of this section such that the record reflects that the request for SIJ classification was not bona fide. USCIS approval of the petition constitutes the granting of consent.

(c) *Juvenile court order(s).* (1) *Court-ordered dependency or custody and parental reunification determination.* The juvenile court must have made certain judicial determinations related to the petitioner's custody or dependency and determined that the petitioner cannot reunify with their parent(s) due to abuse, neglect, abandonment, or a similar basis under State law.

(i) The juvenile court must have made at least one of the following judicial determinations related to the petitioner's custodial placement or dependency in accordance with State law governing such determinations:

(A) Declared the petitioner dependent upon the juvenile court; or

(B) Legally committed to or placed the petitioner under the custody of an agency or department of a State, or an individual or entity appointed by a State or juvenile court.

(ii) The juvenile court must have made a judicial determination that parental reunification with one or both parents is not viable due to abuse, abandonment, neglect, or a similar basis under State law. The court is not required to terminate parental rights to determine that parental reunification is not viable.

(2) *Best interest determination.* (i) A determination must be made in judicial or administrative proceedings by a court or agency recognized by the juvenile court and authorized by law to make such decisions that it would not be in the petitioner's best interest to be returned to the petitioner's or their parent's country of nationality or last habitual residence.

(ii) Nothing in this part should be construed as altering the standards for best interest determinations that juvenile court judges routinely apply under relevant State law.

(3) *Qualifying juvenile court order(s).* (i) The juvenile court must have exercised its authority over the petitioner as a juvenile and made the requisite judicial determinations in this paragraph under applicable State law to establish eligibility.

(ii) The juvenile court order(s) must be in effect on the date the petitioner files the petition and continue through the time of adjudication of the petition, except when the juvenile court's jurisdiction over the petitioner terminated solely because:

(A) The petitioner was adopted, placed in a permanent guardianship, or another child welfare permanency goal was reached, other than reunification with a parent or parents with whom the court previously found that reunification was not viable; or

(B) The petitioner was the subject of a qualifying juvenile court order that was terminated based on age, provided the petitioner was under 21 years of age at the time of filing the petition.

(d) *Petition requirements.* A petitioner must submit all of the following evidence, as applicable to their petition:

(1) *Petition.* A petition by or on behalf of a juvenile, filed on the form prescribed by USCIS in accordance with the form instructions.

(2) *Evidence of age.* Documentary evidence of the petitioner's age, in the form of a valid birth certificate, official government-issued identification, or other document that in USCIS' discretion establishes the petitioner's age. Under no circumstances is the petitioner compelled to submit evidence that would conflict with paragraph (e) of this section.

(3) *Juvenile court order(s).* Juvenile court order(s) with the judicial determinations required by paragraph (c) of this section. Where the best interest determination was made in administrative proceedings, the determination may be provided in a separate document issued in those proceedings.

(4) *Evidence of a similar basis.* When the juvenile court determined parental reunification was not viable due to a basis similar to abuse, neglect, or abandonment, the petitioner must provide evidence of how the basis is legally similar to abuse, neglect, or abandonment under State law. Such evidence must include:

(i) The juvenile court's determination as to how the basis is legally similar to abuse, neglect, or abandonment under State law; or

(ii) Other evidence that establishes the juvenile court made a judicial determination that the legal basis is similar to abuse, neglect, or abandonment under State law.

(5) *Evidentiary requirements for DHS consent.* For USCIS to consent, the juvenile court order(s) and any supplemental evidence submitted by the petitioner must include the following:

(i) The factual basis for the requisite determinations in paragraph (c) of this section; and

(ii) The relief from parental abuse, neglect, abandonment, or a similar basis under State law granted or recognized by the juvenile court. Such relief may include:

(A) The court-ordered custodial placement; or

(B) The court-ordered dependency on the court for the provision of child welfare services and/or other court-ordered or court-recognized protective or remedial relief, including recognition of the petitioner's placement in the custody of the Department of Health and Human Services, Office of Refugee Resettlement.

(6) *U.S. Department of Health and Human Services (HHS) consent.* The petitioner must provide documentation of specific consent from HHS with the petition when:

(i) The petitioner is, or was previously, in the custody of HHS; and

(ii) While in the custody of HHS, the petitioner obtained a juvenile court order that altered the petitioner's HHS custody or placement status.

(e) *No contact.* During the petition or interview process, USCIS will take no action that requires a petitioner to contact the person(s) who allegedly battered, abused, neglected, or abandoned the petitioner (or the family member of such person(s)).

(f) *Interview.* USCIS may interview a petitioner for special immigrant juvenile classification in accordance with 8 CFR 103.2(b). If an interview is conducted, the petitioner may be accompanied by a trusted adult at the interview. USCIS may limit the number of persons present at the interview, except that the petitioner's attorney or accredited representative of record may be present.

(g) *Time for adjudication.* (1) In general, USCIS will make a decision on a petition for classification as a special immigrant juvenile within 180 days of receipt of a properly filed petition. The 180 days does not begin until USCIS has received all of the required evidence in paragraph (d), and the time period will be reset or suspended as described in 8 CFR 103.2(b)(10)(i).

(2) When a petition for special immigrant juvenile classification and an application for adjustment of status to lawful permanent resident are pending at the same time, a request for evidence relating to the separate application for adjustment of status will not stop or suspend the 180-day period for USCIS to decide on the petition for SIJ classification.

(h) *Decision.* USCIS will notify the petitioner of the decision made on the petition, and, if the petition is denied, of the reasons for the denial, pursuant to 8 CFR 103.2(b) and 103.3. If the petition is denied, USCIS will provide notice of the petitioner's right to appeal the decision, pursuant to 8 CFR 103.3.

(i) *No parental immigration rights based on special immigrant juvenile classification.* The natural or prior adoptive parent(s) of a petitioner granted special immigrant juvenile classification will not be accorded any right, privilege, or status under the Act by virtue of their parentage. This prohibition applies to all of the petitioner's natural and prior adoptive parent(s).

(j) *Revocation.* (1) *Automatic revocation.* USCIS will issue a notice to the beneficiary of an approved petition for special immigrant juvenile classification of an automatic revocation under this paragraph as provided in 8 CFR 205.1. The approval of a petition for classification as a special immigrant juvenile made under this section is revoked as of the date of approval if any one of the following circumstances occurs before the decision on the beneficiary's application for adjustment of status to lawful permanent resident becomes final:

(i) Reunification of the beneficiary with one or both parents by virtue of a juvenile court order, where a juvenile court previously deemed reunification with that parent, or both parents, not viable due to abuse, neglect, abandonment, or a similar basis under State law; or

(ii) Administrative or judicial proceedings determine that it is in the beneficiary's best interest to be returned to the country of nationality or last habitual residence of the beneficiary or of their parent(s).

(2) *Revocation on notice.* USCIS may revoke an approved petition for classification as a special immigrant juvenile for good and sufficient cause as provided in 8 CFR 205.2.

PART 205—REVOCATION OF APPROVAL OF PETITIONS

■ 3. The authority citation for part 205 is revised to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1151, 1153, 1154, 1155, 1182, 1186a, and 1324a.

■ 4. Amend § 205.1 by revising paragraph (a)(3)(iv) to read as follows:

§ 205.1 Automatic revocation.

(a) * * *

(3) * * *

(iv) *Special immigrant juvenile petitions.* An approved petition for classification as a special immigrant juvenile will be revoked as provided in 8 CFR 204.11(j)(1).

* * * * *

PART 245—ADJUSTMENT OF STATUS TO THAT OF PERSON ADMITTED FOR PERMANENT RESIDENCE

■ 5. The authority citation for part 245 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1182, 1255; Pub. L. 105–100, section 202, 111 Stat. 2160, 2193; Pub. L. 105–277, section 902, 112 Stat. 2681; Pub. L. 110–229, tit. VII, 122 Stat. 754; 8 CFR part 2.

■ 6. Amend § 245.1 by revising paragraph (e)(3) to read as follows:

§ 245.1 Eligibility.

* * * * *

(e) * * *

(3) *Special immigrant juveniles.* (i) *Eligibility for adjustment of status.* For the limited purpose of meeting one of the eligibility requirements for adjustment of status under section 245(a) of the Act, which requires that an individual be inspected and admitted or paroled, an applicant classified as a special immigrant juvenile under section 101(a)(27)(J) of the Act will be deemed to have been paroled into the United States as provided in § 245.1(a) and section 245(h) of the Act.

(ii) *Bars to adjustment.* An applicant classified as a special immigrant juvenile is subject only to the adjustment bar described in section 245(c)(6) of the Act. Therefore, an applicant classified as a special immigrant juvenile is barred from adjustment if deportable due to engagement in terrorist activity or association with terrorist organizations (section 237(a)(4)(B) of the Act). There is no waiver of or exemption to this adjustment bar if it applies.

(iii) *Inadmissibility provisions that do not apply.* The following inadmissibility provisions of section 212(a) of the Act do not apply to an applicant classified as a special immigrant juvenile and do not render the applicant ineligible for the benefit:

(A) Public charge (section 212(a)(4) of the Act);

(B) Labor certification (section 212(a)(5)(A) of the Act);

(C) Aliens present without admission or parole (section 212(a)(6)(A) of the Act);

(D) Misrepresentation (section 212(a)(6)(C) of the Act);

(E) Stowaways (section 212(a)(6)(D) of the Act);

(F) Documentation requirements for immigrants (section 212(a)(7)(A) of the Act);

(G) Aliens unlawfully present (section 212(a)(9)(B) of the Act);

(iv) *Inadmissibility provisions that do apply.* Except as provided for in paragraph (e)(3)(iii) of this section, all inadmissibility provisions in section 212(a) of the Act apply to an applicant classified as a special immigrant juvenile.

(v) *Waivers.* (A) Pursuant to section 245(h)(2)(B) of the Act, USCIS may grant a waiver for humanitarian purposes, to assure family unity, or in the public interest for any applicable provision of section 212(a) of the Act to an applicant seeking to adjust status based upon their classification as a special immigrant juvenile, except for the following provisions:

(1) Conviction of certain crimes (section 212(a)(2)(A) of the Act) (except for a single offense of simple possession of 30 grams or less of marijuana);

(2) Multiple criminal convictions (section 212(a)(2)(B) of the Act) (except for a single offense of simple possession of 30 grams or less of marijuana);

(3) Controlled substance traffickers (section 212(a)(2)(C) of the Act) (except for a single offense of simple possession of 30 grams or less of marijuana);

(4) Security and related grounds (section 212(a)(3)(A) of the Act);

(5) Terrorist activities (section 212(a)(3)(B) of the Act);

(6) Foreign policy (section 212(a)(3)(C) of the Act); or

(7) Participants in Nazi persecution, genocide, or the commission of any act of torture or extrajudicial killing (section 212(a)(3)(E) of the Act).

(B) The relationship between an applicant classified as a special immigrant juvenile and the applicant's natural or prior adoptive parents cannot be considered a factor in issuing a waiver based on family unity under paragraph (v) of this section.

(vi) *No parental immigration rights based on special immigrant juvenile classification.* The natural or prior adoptive parent(s) of an applicant classified as a special immigrant juvenile will not be accorded any right, privilege, or status under the Act by virtue of their parentage. This prohibition applies to all of the applicant's natural and prior adoptive parent(s) and remains in effect even after the special immigrant juvenile becomes a lawful permanent resident or a United States citizen.

(vii) *No contact.* During the application or interview process, USCIS will take no action that requires an applicant classified as a special immigrant juvenile to contact the person who allegedly battered, abused, neglected, or abandoned the applicant (or the family member of such person(s)).

* * * * *

Alejandro N. Mayorkas,

Secretary, U.S. Department of Homeland Security.

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