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Contents

Federal Register

Vol. 88, No. 4

Friday, January 6, 2023

Separate Parts In This Issue

Reader Aids
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents electronic mailing list, go to https://public.govdelivery.com/accounts/USGPOOFR/subscriber/new, enter your e-mail address, then follow the instructions to join, leave, or manage your subscription.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

10 CFR
72.....949
Proposed Rules:
72.....1010
14 CFR
13.....1114
383.....1114
406.....1114
15 CFR
922.....953
20 CFR
10.....974
21 CFR
870.....975
874.....977
888.....979
890 (2 documents) 981, 983
28 CFR
Proposed Rules:
16.....1012
33 CFR
401.....1114
38 CFR
36.....985
42.....985
40 CFR
19.....986
180.....990
45 CFR
1302.....993
Proposed Rules:
2525.....1021
2526.....1021
2527.....1021
2528.....1021
2529.....1021
2530.....1021
46 CFR
221.....1114
307.....1114
340.....1114
356.....1114
47 CFR
Proposed Rules:
54.....1035
73.....1038
49 CFR
107.....1114
171.....1114
190.....1114
209.....1114
213.....1114
214.....1114
215.....1114
216.....1114
217.....1114
218.....1114
219.....1114
220.....1114
221.....1114
222.....1114
223.....1114
224.....1114
225.....1114
227.....1114
228.....1114
229.....1114
231.....1114
233.....1114
234.....1114
235.....1114
236.....1114
237.....1114
238.....1114
239.....1114
240.....1114
241.....1114
242.....1114
243.....1114
244.....1114
272.....1114
386.....1114
578.....1114

Rules and Regulations

Federal Register
Vol. 88, No. 4
Friday, January 6, 2023

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

[NRC–2022–0181]

RIN 3150–AK88

List of Approved Spent Fuel Storage Casks: Holtec International HI–STORM Flood/Wind Multipurpose Canister Storage System, Certificate of Compliance No. 1032, Amendment No. 6

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is amending its spent fuel storage regulations by revising the Holtec International Storage Module Flood/Wind (HI–STORM FW) Multipurpose Canister Storage System listing within the ''List of approved spent fuel storage casks'' to include Amendment No. 6 to Certificate of Compliance No. 1032. Amendment No. 6 revises and clarifies design and operational requirements in the certificate of compliance for the HI–STORM FW overpack. This amendment also incorporates additional clarifications as well as editorial changes that do not change the substantive technical information of the certificate of compliance.

DATES: This direct final rule is effective March 22, 2023 unless significant adverse comments are received by February 6, 2023. If this direct final rule is withdrawn as a result of such comments, timely notice of the withdrawal will be published in the **Federal Register**. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Comments received on this direct final rule will also be considered to be comments on a companion proposed rule published in the Proposed Rules section of this issue of the **Federal Register**.

ADDRESSES: Submit your comments, identified by Docket ID NRC–2022–0181, at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* call or email the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

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: Norma Garcia Santos, Office of Nuclear Material Safety and Safeguards, telephone: 301–415–6999, email: *Norma.GarciaSantos@nrc.gov* and Gregory Trussell, Office of Nuclear Material Safety and Safeguards, telephone: 301–415–6244, email: *Gregory.Trussell@nrc.gov.* Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2022–0181 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–2022–0181. 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, 301–415–4737, or by email to *PDR.Resource@nrc.gov.* For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the ''Availability of Documents'' section.
- *NRC's PDR:* You may examine and purchase copies of public documents, by appointment, at the NRC's PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8:00 a.m. and 4:00 p.m. eastern time, Monday through Friday, except Federal holidays.

B. Submitting Comments

Please include Docket ID NRC–2022–0181 in your comment submission. The NRC requests that you submit comments through the Federal rulemaking website at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* call or email the individual or individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

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. Rulemaking Procedure

This rule is limited to the changes contained in Amendment No. 6 to Certificate of Compliance No. 1032 and does not include other aspects of the Holtec International Storage Multipurpose Flood/Wind (HI–STORM FW or Holtec International HI–STORM FW) Cask System design. The NRC is using the ''direct final rule procedure'' to issue this amendment because it represents a limited and routine change to an existing certificate of compliance that is expected to be non-controversial. Adequate protection of public health and safety continues to be reasonably assured. The amendment to the rule will become effective on March 22, 2023. However, if the NRC receives any significant adverse comment on this direct final rule by February 6, 2023, then the NRC will publish a document that withdraws this action and will subsequently address the comments received in a final rule as a response to the companion proposed rule published in the Proposed Rules section of this issue of the **Federal Register** or as otherwise appropriate. In general, absent significant modifications to the proposed revisions requiring republication, the NRC will not initiate a second comment period on this action.

A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

(1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, a substantive response is required when:

(a) The comment causes the NRC to reevaluate (or reconsider) its position or conduct additional analysis;

(b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

(c) The comment raises a relevant issue that was not previously addressed or considered by the NRC.

(2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

(3) The comment causes the NRC to make a change (other than editorial) to the rule, certificate of compliance, or technical specifications.

III. Background

Section 218(a) of the Nuclear Waste Policy Act of 1982, as amended, states that ''[t]he Secretary [of the Department of Energy] shall establish a demonstration program, in cooperation with the private sector, for the dry storage of spent nuclear fuel at civilian nuclear power reactor sites, with the objective of establishing one or more technologies that the [Nuclear Regulatory] Commission may, by rule, approve for use at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site-specific approvals by the Commission.'' Section 133 of the Nuclear Waste Policy Act states, in part, that ''[t]he Commission shall, by rule, establish procedures for the licensing of any technology approved by the Commission under Section 219(a) [sic: 218(a)] for use at the site of any civilian nuclear power reactor.''

To implement this mandate, the Commission approved dry storage of spent nuclear fuel in NRC-approved casks under a general license by publishing a final rule that added a new subpart K in part 72 of title 10 of the *Code of Federal Regulations* (10 CFR) entitled ''General License for Storage of Spent Fuel at Power Reactor Sites'' (55 FR 29181; July 18, 1990). This rule also established a new subpart L in 10 CFR part 72 entitled ''Approval of Spent Fuel Storage Casks,'' which contains procedures and criteria for obtaining NRC approval of spent fuel storage cask designs. The NRC subsequently issued a final rule on March 28, 2011 (76 FR 17019), that approved the Holtec International HI–STORM FW System design and added it to the list of NRC approved cask designs in § 72.214, ''List of approved spent fuel storage casks,'' as Certificate of Compliance No. 1032.

IV. Discussion of Changes

By letter dated October 2, 2019, and supplemented on June 30, 2020, December 21, 2020, August 2, 2021, and November 29, 2021, Holtec International submitted a request to amend Certificate of Compliance No. 1032 for the HI–STORM Flood/Wind Multipurpose Canister Storage System. Amendment No. 6 revises the certificate and technical specifications as follows:

- add anchored configuration for the HI–STORM FW overpack;
- allow use of non-single failure proof lifting equipment during handling of heavy loads within the 10 CFR part 72 jurisdictional boundary;
- revise LCO 3.1.2, ''SFSC Heat Removal System Operability,'' to allow an engineering evaluation to be performed in lieu of transferring the multipurpose canister (MPC) into a transfer cask;
- revise the Radioactive Effluent Control Program to no longer require annual submittal of a separate radioactive effluent report [10 CFR 72.44(d)(3)] for the HI–STORM FW system;
- revise the allowable contents for the MPC–37, –89, and –32ML to clarify fuel debris requirements permitted for storage;
- revise the MPC–37, –89, and –32ML basket design features to clarify that the minimum cell ID and minimum cell wall thickness are nominal dimensions; and
- incorporate additional clarifications and editorial changes that do not substantively change the technical information of the certificate of compliance.

As documented in the preliminary safety evaluation report, the NRC performed a safety evaluation of the proposed certificate of compliance amendment request. The NRC determined that this amendment does not reflect a significant change in design or fabrication of the cask. Specifically, the NRC determined that the design of the cask would continue to maintain confinement, shielding, and criticality control in the event of each evaluated accident condition. In addition, any resulting occupational exposure or offsite dose rates from the implementation of Amendment No. 6 would remain well within the limits specified by 10 CFR part 20, ''Standards for Protection Against Radiation.'' Thus, the NRC found there will be no significant change in the types or amounts of any effluent released, no significant increase in the individual or cumulative radiation exposure, and no significant increase in the potential for or consequences from radiological accidents.

The NRC staff determined that the amended HI–STORM FW Cask System design, when used under the conditions specified in the certificate of compliance, the technical specifications, and the NRC's regulations, will meet the requirements of 10 CFR part 72; therefore, adequate protection of public health and safety will continue to be reasonably assured. When this direct final rule becomes effective, persons who hold a general

license under § 72.210 may, consistent with the license conditions under § 72.212, load spent nuclear fuel into HI–STORM FW Cask Systems that meet the criteria of Amendment No. 6 to Certificate of Compliance No. 1032.

V. Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995 (Pub. L. 104–113) requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this direct final rule, the NRC revises the HI–STORM FW Cask System design listed in § 72.214, ''List of approved spent fuel storage casks.'' This action does not constitute the establishment of a standard that contains generally applicable requirements.

VI. Agreement State Compatibility

Under the ''Agreement State Program Policy Statement'' approved by the Commission on October 2, 2017, and published in the **Federal Register** on October 18, 2017 (82 FR 48535), this rule is classified as Compatibility Category NRC—Areas of Exclusive NRC Regulatory Authority. The NRC program elements in this category are those that relate directly to areas of regulation reserved to the NRC by the Atomic Energy Act of 1954, as amended, or the provisions of 10 CFR chapter I. Therefore, compatibility is not required for program elements in this category.

VII. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111–274) requires Federal agencies to write documents in a clear, concise, and well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, ''Plain Language in Government Writing,'' published June 10, 1998 (63 FR 31885).

VIII. Environmental Assessment and Finding of No Significant Impact

Under the National Environmental Policy Act of 1969, as amended, and the NRC's regulations in 10 CFR part 51, ''Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions,'' the NRC has determined that this direct final rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment and, therefore, an environmental impact statement is not required. The NRC has made a finding of no significant impact on the basis of this environmental assessment.

A. The Action

The action is to amend § 72.214 to revise the HI–STORM FW Cask System design listing within the ''List of approved spent fuel storage casks'' to include Amendment No. 6 to Certificate of Compliance No. 1032.

B. The Need for the Action

This direct final rule amends the certificate of compliance for the HI–STORM FW Cask System design within the list of approved spent fuel storage casks to allow power reactor licensees to store spent fuel at reactor sites in casks with the approved modifications under a general license. Specifically, Amendment No. 6 revises the certificate of compliance as described in Section IV, ''Discussion of Changes,'' of this document, for the use of the HI–STORM FW Cask System.

C. Environmental Impacts of the Action

On July 18,1990 (55 FR 29181), the NRC issued an amendment to 10 CFR part 72 to provide for the storage of spent fuel under a general license in cask designs approved by the NRC. The potential environmental impact of using NRC-approved storage casks was analyzed in the environmental assessment for the 1990 final rule. The environmental assessment for this Amendment No. 6 tiers off of the environmental assessment for the July 18, 1990, final rule. Tiering on past environmental assessments is a standard process under the National Environmental Policy Act of 1969, as amended.

The HI–STORM FW Cask System is designed to mitigate the effects of design basis accidents that could occur during storage. Design basis accidents account for human-induced events and the most severe natural phenomena reported for the site and surrounding area. Postulated accidents analyzed for an independent spent fuel storage installation, the type of facility at which a holder of a power reactor operating license would store spent fuel in casks in accordance with 10 CFR part 72, can include tornado winds and tornado-generated missiles, a design basis earthquake, a design basis flood, an accidental cask drop, lightning effects, fire, explosions, and other incidents.

This amendment does not reflect a significant change in design or fabrication of the cask. Because there are no significant design or process changes, any resulting occupational exposure or offsite dose rates from the implementation of Amendment No. 6 would remain well within the 10 CFR part 20 limits. The NRC has also determined that the design of the cask as modified by this rule would maintain confinement, shielding, and criticality control in the event of an accident. Therefore, the proposed changes will not result in any radiological or non-radiological environmental impacts that significantly differ from the environmental impacts evaluated in the environmental assessment supporting the July 18, 1990, final rule. There will be no significant change in the types or significant revisions in the amounts of any effluent released, no significant increase in the individual or cumulative radiation exposures, and no significant increase in the potential for, or consequences from, radiological accidents. The NRC documented its safety findings in the preliminary safety evaluation report.

D. Alternative to the Action

The alternative to this action is to deny approval of Amendment No. 6 and not issue the direct final rule. Consequently, any 10 CFR part 72 general licensee that seeks to load spent nuclear fuel into the HI–STORM FW Cask System in accordance with the changes described in proposed Amendment No. 6 would have to request an exemption from the requirements of §§ 72.212 and 72.214. Under this alternative, interested licensees would have to prepare, and the NRC would have to review, a separate exemption request, thereby increasing the administrative burden upon the NRC and the costs to each licensee. The environmental impacts would be the same as the proposed action.

E. Alternative Use of Resources

Approval of Amendment No. 6 to Certificate of Compliance No. 1032 would result in no irreversible commitment of resources.

F. Agencies and Persons Contacted

No agencies or persons outside the NRC were contacted in connection with the preparation of this environmental assessment.

G. Finding of No Significant Impact

The environmental impacts of the action have been reviewed under the requirements in the National Environmental Policy Act of 1969, as amended, and the NRC's regulations in subpart A of 10 CFR part 51, ''Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions.'' Based on the foregoing environmental assessment, the

NRC concludes that this direct final rule, ''List of Approved Spent Fuel Storage Casks: Holtec International HI–STORM Flood/Wind Multipurpose Canister Storage System, Certificate of Compliance No. 1032, Amendment No. 6,'' will not have a significant effect on the human environment. Therefore, the NRC has determined that an environmental impact statement is not necessary for this direct final rule.

IX. Paperwork Reduction Act Statement

This direct final rule does not contain any new or amended collections of information subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Existing collections of information were approved by the Office of Management and Budget, approval number 3150–0132.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the requesting document displays a currently valid Office of Management and Budget control number.

X. Regulatory Flexibility Certification

Under the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the NRC certifies that this direct final rule will not, if issued, have a significant economic impact on a substantial number of small entities. This direct final rule affects only nuclear power plant licensees and Holtec International. These entities do not fall within the scope of the definition of small entities set forth in the Regulatory Flexibility Act or the size standards established by the NRC (§ 2.810).

XI. Regulatory Analysis

On July 18, 1990 (55 FR 29181), the NRC issued an amendment to 10 CFR part 72 to provide for the storage of spent nuclear fuel under a general license in cask designs approved by the NRC. Any nuclear power reactor licensee can use NRC-approved cask designs to store spent nuclear fuel if (1) it notifies the NRC in advance; (2) the spent fuel is stored under the conditions specified in the cask's certificate of compliance; and (3) the conditions of the general license are met. A list of NRC-approved cask designs is contained in § 72.214. On March 28, 2011 (76 FR 17019), the NRC issued an amendment to 10 CFR part 72 that approved the HI–STORM FW Cask System design by adding it to the list of NRC-approved cask designs in § 72.214.

By letter dated October 2, 2019, and supplemented on June 30, 2020, December 21, 2020, August 2, 2021, and November 29, 2021, Holtec International submitted a request to amend Certificate of Compliance No. 1032 for the HI–STORM FW Cask System as described in Section IV, ''Discussion of Changes,'' of this document.

The alternative to this action is to withhold approval of Amendment No. 6 and to require any 10 CFR part 72 general licensee seeking to load spent nuclear fuel into the HI–STORM FW Cask System under the changes described in Amendment No. 6 to request an exemption from the requirements of §§ 72.212 and 72.214. Under this alternative, each interested 10 CFR part 72 licensee would have to prepare, and the NRC would have to review, a separate exemption request, thereby increasing the administrative burden upon the NRC and the costs to each licensee.

Approval of this direct final rule is consistent with previous NRC actions. Further, as documented in the preliminary safety evaluation report and environmental assessment, this direct final rule will have no adverse effect on public health and safety or the environment. This direct final rule has no significant identifiable impact or benefit on other government agencies. Based on this regulatory analysis, the NRC concludes that the requirements of this direct final rule are commensurate with the NRC's responsibilities for public health and safety and the common defense and security. No other available alternative is believed to be as satisfactory; therefore, this action is recommended.

XII. Backfitting and Issue Finality

The NRC has determined that the backfit rule (§ 72.62) does not apply to this direct final rule. Therefore, a backfit analysis is not required. This direct final rule revises Certificate of Compliance No. 1032 for the HI–STORM FW Cask System, as currently listed in § 72.214. The revision consists of the changes in Amendment No. 6 previously described, as set forth in the revised certificate of compliance and technical specifications.

Amendment No. 6 to Certificate of Compliance No. 1032 for the HI–STORM FW Cask System was initiated by Holtec International and was not submitted in response to new NRC requirements, or an NRC request for amendment. Amendment No. 6 applies only to new casks fabricated and used under Amendment No. 6. These changes do not affect existing users of the HI–STORM FW Cask System, and the current Amendments Nos. 0 to 5 and 8 continue to be effective for existing users. While current users of this storage system may comply with the new requirements in Amendment No. 6, this would be a voluntary decision on the part of current users.

For these reasons, Amendment No. 6 to Certificate of Compliance No. 1032 does not constitute backfitting under § 72.62 or § 50.109(a)(1), or otherwise represent an inconsistency with the issue finality provisions applicable to combined licenses in 10 CFR part 52. Accordingly, the NRC has not prepared a backfit analysis for this rulemaking.

XIII. Congressional Review Act

This direct final rule is not a rule as defined in the Congressional Review Act.

XIV. Availability of Documents

The documents identified in the following table are available to interested persons as indicated.

Document	ADAMS accession No./ web link/**Federal Register** citation
Submission of a Request to Amend the U.S. Nuclear Regulatory Commission Certificate of Compliance No. 1032, October 2, 2019.	ML19282C357 (package).
Holtec Responses to HI–STORM FW Amd. 6 Requests for Supplemental Information, June 30, 2020	ML20182A860 (package).
Holtec Responses to HI–STORM FW Amd. 6 Requests for Additional Information, December 21, 2020	ML20356A328.
Supplemental Responses to HI–STORM FW Amd. 6 Requests for Additional Information, August 2, 2021	ML21214A130 (package).
Holtec International Revised Supplemental Responses for HI–STORM FW Amd. 6 Requests for Additional Information, November 29, 2021.	ML21333A137 (package).
Certificate of Compliance No. 1032 Amendment No. 6 Preliminary Safety Evaluation Report	ML22145A411.
Draft Certificate of Compliance No. 1032 Amendment No. 6	ML22145A408.
Proposed Certificate of Compliance No. 1032 Amendment No. 6 Technical Specifications, Appendix A	ML22145A409.

Document	ADAMS accession No./ web link/**Federal Register** citation
Proposed Certificate of Compliance No. 1032 Amendment No. 6 Approved Contents and Design Features, Appendix B.	ML22145A410.
User Need Memorandum for Rulemaking for the HI–STORM Flood/Wind Multipurpose Canister Storage System, Amendment No. 6.	ML22145A407.

The NRC may post materials related to this document, including public comments, on the Federal rulemaking website at *https://www.regulations.gov* under Docket ID NRC–2022–0181. In addition, the Federal rulemaking website allows members of the public to receive alerts when changes or additions occur in a docket folder. To subscribe: (1) navigate to the docket folder (NRC–2022–0181), (2) click the ''Subscribe'' link, and (3) enter an email address and click on the ''Subscribe'' link.

List of Subjects in 10 CFR Part 72

Administrative practice and procedure, Hazardous waste, Indians, Intergovernmental relations, Nuclear energy, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; the Nuclear Waste Policy Act of 1982, as amended; and 5 U.S.C. 552 and 553; the NRC is adopting the following amendments to 10 CFR part 72:

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL, HIGH-LEVEL RADIOACTIVE WASTE, AND REACTOR-RELATED GREATER THAN CLASS C WASTE

■ 1. The authority citation for part 72 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 223, 234, 274 (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2210e, 2232, 2233, 2234, 2236, 2237, 2238, 2273, 2282, 2021); Energy Reorganization Act of 1974, secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); National Environmental Policy Act of 1969 (42 U.S.C. 4332); Nuclear Waste Policy Act of 1982, secs. 117(a), 132, 133, 134, 135, 137, 141, 145(g), 148, 218(a) (42 U.S.C. 10137(a), 10152, 10153, 10154, 10155, 10157, 10161, 10165(g), 10168, 10198(a)); 44 U.S.C. 3504 note.

■ 2. In § 72.214, revise Certificate of Compliance No. 1032 to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1032.

Initial Certificate Effective Date: June 13, 2011, superseded by Amendment Number 0, Revision 1, on April 25, 2016.

Amendment Number 0, Revision 1, Effective Date: April 25, 2016.

Amendment Number 1 Effective Date: December 17, 2014, superseded by Amendment Number 1, Revision 1, on June 2, 2015.

Amendment Number 1, Revision 1, Effective Date: June 2, 2015.

Amendment Number 2 Effective Date: November 7, 2016.

Amendment Number 3 Effective Date: September 11, 2017.

Amendment Number 4 Effective Date: July 14, 2020.

Amendment Number 5 Effective Date: July 27, 2020.

Amendment Number 6 Effective Date: March 22, 2023.

Amendment Number 7 [Reserved]

Amendment Number 8 Effective Date: October 11, 2022.

SAR Submitted by: Holtec International.

SAR Title: Final Safety Analysis Report for the HI–STORM FW System.

Docket Number: 72–1032.

Certificate Expiration Date: June 12, 2031.

Model Number: HI–STORM FW MPC–37, MPC–89.

* * * * *

Dated: December 21, 2022.

For the Nuclear Regulatory Commission.

Daniel H. Dorman,

Executive Director for Operations.

[FR Doc. 2022–28633 Filed 1–5–23; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 922

[Docket No. 221215–0274]

RIN 0648–AV85

National Marine Sanctuary Regulations

AGENCY: Office of National Marine Sanctuaries (ONMS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Final rule; interim final rule; administrative withdrawal.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) published in the **Federal Register** on May 13, 2022 an interim final rule amending the National Marine Sanctuaries program regulations, which has not yet gone into effect. With this final rule, NOAA administratively withdraws the amendatory instructions and associated regulatory text of the interim final rule, and, in response to public comment replaces it with slightly revised amendatory instructions and regulatory text for a few—but not all—provisions that were in that interim final rule. NOAA, however, retains the preamble and the responses to public comments provided in the interim final rule. Even with these revisions, this final rule is largely similar to the interim final rule, except that NOAA retains the existing regulatory language on the definition of ''commercial fishing'' and retains the opportunity for third party appeals of sanctuary permitting decisions by interested parties in those sanctuaries that currently recognize such appeals. In addition, this final rule removes amendatory instructions for updating the boundary description and boundary coordinates for the Flower Garden Banks National Marine Sanctuary (NMS), which were inadvertently included in the interim final rule and did not reflect a boundary expansion that went into effect on March 22, 2021. This document provides responses to additional comments received on the interim final rule.

DATES: This rule is effective on February 6, 2023. As of January 6, 2023, the interim final rule published May 13, 2022, at 87 FR 29606, delayed on June 24, 2022, at 87 FR 37228, and further delayed on September 14, 2022 (87 FR 56268), is withdrawn.

ADDRESSES: Vicki Wedell, NOAA Office of National Marine Sanctuaries, (240) 533–0650, *Vicki.Wedell@noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Vicki Wedell, NOAA Office of National Marine Sanctuaries, (240) 533–0650, *Vicki.Wedell@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The National Marine Sanctuaries Act (NMSA) authorizes the Secretary of Commerce (Secretary) to designate, manage, and protect as a national marine sanctuary (NMS) any area of the marine environment that is of special national significance due to its conservation, recreational, ecological, historical, scientific, cultural, archeological, educational, or esthetic qualities (16 U.S.C. 1431 *et seq.*). Since the NMSA was enacted, fifteen (15) NMSs have been designated. Day-to-day management of the National Marine Sanctuaries System (System) is delegated from the Secretary to NOAA's Office of National Marine Sanctuaries (ONMS). Regulations implementing the NMSA are codified in Title 15, part 922 of the Code of Federal Regulations (CFR). Part 922 includes general regulations applicable to all sanctuaries (subparts A through E) and site-specific regulations that relate to each individual sanctuary (subparts F through T).

As the System evolved and new sanctuaries were designated, corresponding changes were made to the general and site-specific regulations. In certain instances, these changes produced redundant, inconsistent, outdated, or conflicting regulatory provisions. NOAA published a proposed rule on January 18, 2011 (78 FR 5998) to update and streamline the regulations, and subsequently published an interim final rule on May 13, 2022 adopting the proposed changes, establishing a delayed effective date, and providing an opportunity for additional public comment (87 FR 29606). This final rule withdraws the amendatory instructions and associated regulatory text of that interim final rule, but retains the preamble and responses to comments provided in that interim final rule. The effect of this final rule is to affirm much of that interim final rule, as this final rule is largely similar to the interim final rule. As such, this final rule updates both the general and site-specific regulations as contemplated in the original proposed rule, making the regulations more consistent, uniform, concise, organized, and understandable by:

- Reorganizing and consolidating existing general regulations published in subparts A (General), B (Sanctuary Nomination Process), C (Designation of National Marine Sanctuaries), D (Management Plan Development and Implementation, and E (Regulations of General Applicability) into a new subpart A (Regulations of General Applicability);
- Updating and consolidating sanctuary permitting procedures and requirements into a new subpart D (National Marine Sanctuary Permitting), which applies to all sanctuaries unless expressly stated in subpart D or the site-specific regulations;
- Reserving subparts B, C, and E; and
- Making non-substantive, administrative changes to the site-specific sanctuary regulations set forth in subparts F through T of 15 CFR part 922.

II. Changes to the Interim Final Rule

This final rule administratively withdraws the amendatory instructions and associated text from the interim final rule published on May 13, 2022, at 87 FR 29606,[1] and replaces them with the amendatory instructions and associated regulatory text herein, while retaining the interim final rule's preamble discussion and the interim final rule's responses to comments. The effect of this final rule is to largely affirm the interim final rule, while making minor amendments in certain provisions to respond to comments and make technical corrections to boundary coordinates.

As noted below in ''III. Response to Comments on the interim final rule'', NOAA retains the existing regulatory language for the definition of the term ''commercial fishing'' and for third party appeals of sanctuary permitting decisions by interested persons in those sanctuaries that currently recognize such appeals (*i.e.,* Monitor, Channel Islands, Greater Farallones, Gray's Reef, Cordell Bank, Mallows Bay—Potomac River, Wisconsin Shipwreck Coast national marine sanctuaries, and National Marine Sanctuary of American Samoa). In addition, this final rule removes amendatory instructions for updating the boundary description and boundary coordinates for the Flower Garden Banks National Marine Sanctuary (NMS), which were inadvertently included in the interim final rule and did not reflect the boundary expansion that went into effect on March 22, 2021 (86 FR 15404). These changes from the interim final rule are discussed below in more detail.

In FR Doc. 2022–09626 appearing on page 29606 in the **Federal Register** of Friday, May 13, 2022, the following corrections are made:

A. Instruction 19 in the regulatory text of the interim final rule, appearing at 87 FR 29633, directed the **Federal Register** to revise paragraph (a) in 15 CFR 922.92. However, only the introductory text of the paragraph was set out and the remaining subparagraphs in the section were inadvertently omitted. The instruction should have said to revise the introductory text of paragraph (a), keeping the subparagraphs unchanged. In order to retain the subparagraphs to (a), NOAA publishes this final rule with this technical correction and makes the corresponding changes to the amendatory instructions below.

B. Instructions 29 and 33 in the regulatory text are removed. The boundary description for Flower Garden Banks NMS is set forth in 15 CFR 922.120, and Appendix A of 15 CFR 922 subpart L, includes the boundary coordinates for the Flower Garden Banks NMS. The sanctuary was expanded in 2021 to include several additional banks in the northwestern Gulf of Mexico (86 FR 4937; January 19, 2021). The amendatory instructions to revise the boundary description in 15 CFR 922.120 and the table of boundary coordinates are removed so the areas added to the sanctuary in 2021 will be retained.

In response to a public comment requesting that NOAA conduct additional analysis before modifying the definition of the term ''commercial fishing,'' NOAA has decided not to move forward with changing the definition. NOAA will further evaluate the issues before proposing to modify the definition of the term ''commercial fishing.''

Based on the input we received through public comments, NOAA has decided not to finalize the proposal to limit third party appeals to only applicants and permittees in sites that allow any interested person to appeal. Instead, NOAA is retaining the existing language in the regulations that provides the opportunity for third party administrative appeals at Monitor NMS, Channel Islands NMS, Greater Farallones NMS, Gray's Reef, NMS of American Samoa, Cordell Bank NMS, Mallows Bay Potomac River NMS, and

[1] Note, the effective date of Interim Final Rule was delayed on June 24, 2022, at 87 FR 37228, and again delayed on September 14, 2022 at 87 FR 56268.

Wisconsin Shipwreck Coast NMS (*see* subparts F through K and S and T). NOAA intends to continue evaluating the process for engaging with interested parties in sanctuary permitting decisions and may revisit this issue in a subsequent rulemaking process.

III. Response to Comments on the Interim Final Rule

NOAA received eight public comments on the interim final rule, which are divided into ten topics. Each topic is summarized below and NOAA's responses follow.

1. *Comment:* NOAA received several comments that expressed general support for the housekeeping rulemaking effort, in which NOAA seeks to streamline and clarify important elements of ONMS regulations. There was also support for specific provisions, including the decision not to consolidate the definition of ''traditional fishing'' and the decision to extend the deadline from 120 days to 180 days for a Regional Fishery Management Council to respond to a request for draft fishing regulations pursuant to NMSA section 304(a)(5).

Response: NOAA appreciates the public support for those provisions.

2. *Comment:* NOAA received a comment that identified a correction that needs to be made regarding a web page on the ONMS website that should be updated to include the new expanded Flower Garden Banks NMS boundaries. The commenter also identified that Appendix A to subpart L of 15 CFR part 922 should be updated to include the new expanded Flower Garden Banks NMS boundaries.

Response: NOAA will update the web page accordingly and, as discussed above, this final rule corrects the interim final rule to accurately describe the Flower Garden Banks NMS boundaries in subpart L of 15 CFR part 922.

3. *Comment:* NOAA received a comment requesting that it reissue the rulemaking as a proposed rule to solicit additional public comment.

Response: NOAA declines to reissue the rulemaking as a proposed rule. Although several years have passed since the 2013 proposed rule was published, NOAA believes the organizational and clarifying changes contained in that proposed rule remain relevant and useful, and will make it easier for stakeholders and the public to understand and navigate the NMSA regulations. NOAA accepted public comment on the proposed rule for a period of sixty days from January 28, 2013 through March 28, 2013, and NOAA received 28 comments on the proposed rule. Recognizing the time that elapsed since the publication of the 2013 proposed rule, NOAA issued an interim final rule with a delayed effective date that provided an additional thirty-day public comment period, which opened on May 13, 2022 and closed on June 13, 2022. The purpose of this additional public comment period was to provide NOAA with further opportunity to consider the potential impact of this action, including any relevant new issues or concerns that may have arisen in the years since the rule was proposed. NOAA received only eight public comments on the interim final rule. In total, ninety days of public comment have been afforded for this Action. Given this, NOAA believes there has been sufficient opportunity for public engagement to identify the relevant views of the public related to this rulemaking.

4. *Comment:* One commenter questioned the proposed modification to the definition of the term ''commercial fishing'' and recommended that additional analysis be completed before the definition is changed. The commenter noted that commercial fishing includes specific permitting, reporting and operational requirements and that simply trying to sell fish does not make that person a commercial fisher. The commenter asked how the definition considers charter or for-hire captains that are permitted to sell their catch. Lastly, the commenter questioned how attempts to fish commercially would be enforced.

Response: NOAA reviewed the proposed modification to the definition of the term ''commercial fishing'' in light of the concerns raised by the commenter and has decided not to finalize the proposed modification to the definition. NOAA will continue to evaluate the proposed modification and may revisit this issue in a subsequent rulemaking.

5. *Comment:* One commenter questioned the modification of the term ''conventional hook and line gear'' and recommended that additional analysis be completed before the definition is changed. They indicated that the implications of removing the term ''bottom'' in the term ''bottom longline'' are uncertain and it is unclear why ''bottom longline'' is not considered ''conventional hook and line gear.'' The commenter also asked about the implications of the change for pelagic longline and buoy gear. The commenter further asked whether the length of the gear (*e.g.,* the mainline) or number of hooks deployed or the material of the mainline impact the applicability of the term ''conventional hook and line gear.''

Response: In Flower Garden Banks NMS, ''conventional hook and line gear'' is an exception to various regulatory prohibitions relating to the discharge or deposit of material within the sanctuary, injuring fish, whale shark and other sanctuary resources identified in the site-specific regulations at 922.122(a)(3)(i)(A) and (a)(7)–(10). Related to this sanctuary's regulations, ''conventional hook and line gear'' is inclusive of any fishing gear composed of a single line terminated by a combination of sinkers and hooks or lures. The definition of ''conventional hook and line gear'' was first introduced with the designation Flower Garden Banks NMS, which is the only site that uses the term. Historically, longline, particularly bottom longline, has been excluded from the definition of ''conventional hook and line gear'' (56 FR 64634; Dec. 5, 1991). According to the 1991 Flower Garden Banks NMS Final Environmental Impact Statement (FGBNMS FMP/FEIS), handlines were the only commercial fishing method documented at Flower Garden Banks NMS at the time of the designation and were particularly used for reef fish (see p. 40, FGBNMS FMP/FEIS). The use of bottom longlines and similar gear (such as buoy gear) was and still remains prohibited at Flower Garden Banks NMS pursuant to regulations implementing the Gulf of Mexico Fishery Management Plan for Coral and Coral Reefs (see p. 40, FGBNMS FMP/FEIS; see *e.g.,* 50 CFR 622.74(p), (q), and (r)). Sport fishermen also used handlines to fish for snappers and groupers (see p. 40–41, FGBNMS FMP/FEIS). Since longline (including pelagic and buoy gear) is a single line fitted with a series of offshoot lines (ganglions) and baited hooks along its entire length, it does not fit within the definition of ''conventional hook and line gear,'' which is a single line terminated by a combination of sinkers and hooks or lures. The purpose of this rulemaking is not to make substantive changes to the definition; rather, the purpose, as noted in the 2013 proposed rule, is to clarify that the fishing gear prohibition applies to all types of longlines in Flower Garden Banks NMS, and not just bottom longlines (78 FR 5998, 6001; Jan. 28, 2013). The length of the longline mainline, numbers of hooks along the offshoot lines, and material of the mainline does not impact the applicability of the term ''conventional hook and line'' as this term applies to the site-specific regulations for Flower Garden Banks NMS.

6. *Comment:* One commenter expressed concerns that the changes between the proposed rule and the interim final rule regarding the definition of the term ''take (taking or taken)'' limits its applicability to marine mammals, sea turtles and birds with protections under those laws identified (the Endangered Species Act (ESA), the Marine Mammal Protection Act (MMPA), and the Migratory Bird Treaty Act (MBTA)), and asserted that the final definition excludes animals that were proposed to be included. The commenter asked that NOAA provide additional information about the impacts of this rulemaking on ESA-listed species and suggested that the changes to the definition of ''take (taking or taken)'' may affect listed species and therefore may require consultation under Section 7 of the Endangered Species Act.

Response: The proposed rule sought to reformat and update the existing definition of ''take or taking.'' The proposed definition of ''take or taking'' also included a fourth provision intended to clarify that the definition did not only apply to marine mammals, sea turtles, or birds, but also applied to other sanctuary resources. In response to public comments concerned that the proposed definition of ''take or taking'' inadvertently expanded the scope of the existing regulatory prohibitions (*see* interim final rule Comment 24 in Section IV. Responses to Comments), NOAA revised the proposed definition by eliminating the fourth provision. For site-specific regulations that prohibit take of other living or non-living sanctuary resources (*e.g., 15 CFR 922.112(a); 922.132(11)(i); 922.163(a)(2), (5); 922.164(d)(ii)*), the plain language reading of the term ''take (taking or taken)'' continues to apply. In this final rule (as in the interim final rule), NOAA neither expands nor narrows the scope of the term ''take'' which applies to species listed under the ESA, MMPA, or MBTA. This action makes no change to the current definition of the term ''take'' as it applies to ESA-listed marine mammals, sea turtles, and seabirds. Therefore, ONMS does not believe there is a substantive impact on ESA-listed species, or that the Section 7 ESA consultation requirement is triggered.

7. *Comment:* NOAA received comments that raised concerns regarding limiting administrative permit appeals to applicants and holders of permits. These comments asserted that all sanctuaries should allow third parties to have an opportunity for an administrative appeal of ONMS permit decisions. The commenters also noted that, eliminating third party permit appeals, would force third parties to litigate sanctuary permitting concerns in federal court.

Response: NOAA declines to extend third party appeals to all sites. However, in response to public comment on the interim final rule, NOAA will retain the existing opportunity for third party sanctuary permit appeals in sites in the System that currently afford such appeals. If NOAA chooses to propose changes to the appellant pool at some point in the future, NOAA would do so through a separate rulemaking. NOAA notes that interested third parties may also provide meaningful input to the permit process and the underlying sanctuary regulations, through a variety of other mechanisms, including public review and comment of associated environmental analyses as part of the National Environmental Policy Act (NEPA) process or other statutory processes, as applicable.

8. *Comment:* NOAA received comments that raised concerns about an existing ONMS permit approval authority referred to as ONMS authorization (found in the interim final rule and this final rule at new section 15 CFR 922.36), which allows the ONMS Director to allow an applicant to conduct an otherwise prohibited activity if the proposed activity is permitted by another valid federal, state, or local agency. Commenters asserted that another agency's permit authority should not override ONMS regulatory prohibitions that were established during sanctuary designation or subsequent regulatory revisions. They also asserted that a public review and comment process should be required before an ONMS authorization for the prohibited activity is issued.

Response: The ONMS authorization authority is an existing type of permit approval authority that the Director may rely upon to allow otherwise prohibited activities within certain National Marine Sanctuaries (*i.e.,* Flower Garden Banks, Monterey Bay, Stellwagen Bank, Olympic Coast, Florida Keys, Thunder Bay, Mallows Bay-Potomac River, and Wisconsin Shipwreck Coast), where such activities are permitted by another valid Federal, State, or local agency. The Director must consider a suite of review criteria to decide whether to issue an ONMS authorization and what terms and conditions should be applied to an ONMS authorization. Utilization of this long-standing ONMS authorization authority can function to minimize administrative burdens on the regulated community while retaining the Director's ability to safeguard sanctuary resources and effectively manage those sanctuaries. NOAA's revisions to the regulatory provisions on ONMS authorization (as found in new section 15 CFR 922.36) are intended to clarify—not substantively alter—the existing ONMS authorization authority, which was previously codified at 15 CFR 922.49. Through this action, NOAA is not expanding the existing ONMS authorization authority or creating a new authority. Therefore, this comment is beyond the scope of this action. We also note that, as with other ONMS permit approvals, the public may provide input to the permit process through other mechanisms, including public review and comment of associated environmental analyses as part of the NEPA process or other statutory processes, as applicable.

9. *Comment:* One commenter asked NOAA to further regulate primary threats to ESA-listed species in NMSs, including those threats that result from fishing activities. The commenter specifically raised concerns about language in 15 CFR 922.5 that states, ''[t]he Director may only directly regulate fishing activities pursuant to the procedure set forth in section 304(a)(5) of the NMSA.'' The commenter asserted that it is inconsistent with a provision in Section 2(c) of the ESA that establishes that it is ''the policy of Congress that all Federal departments and agencies shall seek to conserve endangered species and threatened species and shall utilize their authorities in furtherance of the purposes of this Act.'' They further stated that the ESA defines ''conservation'' to mean ''the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to the [ESA] are no longer necessary.''

Response: This action is intended to promulgate administrative updates to the existing sanctuary regulations (15 CFR part 922) to make them more consistent, uniform, concise, organized, and understandable. The commenter's request for NOAA to promulgate additional regulatory protections to address primary threats to ESA-listed species in NMSs is a substantive change that is beyond the scope of this action. Thus, the commenter's request to promulgate additional regulatory protections is declined.

10. *Comment:* One commenter recommended that NOAA update 15 CFR 922.122(h) to include renewable energy leases. These regulations relate to the limitation on the ability of ONMS to issue permits for the exploration for, development of, or production of oil,

gas, or minerals in a no-activity zone in the Flower Garden Banks NMS.

Response: This action is intended to promulgate administrative updates to the existing sanctuary regulations (15 CFR part 922) to make them more consistent, uniform, concise, organized, and understandable. Adding a new restriction on ONMS permitting authority for renewable energy leases would be a substantive revision to the regulations that is beyond the scope of this rulemaking. Accordingly, the commenter's request to update 15 CFR 922.122(h) to include renewable energy leases is declined.

V. Classification

A. National Environmental Policy Act [2]

NOAA Administrative Order (NAO) 216–6A and the Companion Manual for NAO 216–6A (*https://www.nepa.noaa.gov/docs/NOAA-NAO-216-6A-Companion-Manual-01132017.pdf*) establish NOAA's policy and procedures for compliance with NEPA and the associated Council on Environmental Quality's regulations. NAO 216–6A, Environmental Review Procedures, requires all proposed actions to be reviewed with respect to environmental consequences on the human environment.

In the proposed rule (78 FR 5998; January 28, 2013), NOAA stated that it was preparing a draft environmental assessment (EA) to analyze the potential environmental impacts of the proposed rulemaking and that the draft EA would be released for public comment. The analysis in the draft EA would have focused on analyzing the potential environmental impacts of the consolidated definition of motorized personal watercraft (MPWC). Based on public comment received on the proposed rule, NOAA decided to withdraw the proposal to consolidate the MPWC definition and it was not included in the interim final rule. As a result, NOAA determined that preparation of a draft EA was not necessary for this rule. NOAA determined that, because the interim final rule included only technical and administrative changes to regulatory text, it fell within the criteria of a categorical exclusion in Appendix E of the NOAA NEPA Companion Manual, specifically categorical exclusion reference number G7 (''Preparation of policy directives, rules, regulations, and guidelines of an administrative, financial, legal, technical, or procedural nature, or for which the environmental effects are too broad, speculative or conjectural to lend themselves to meaningful analysis and will be subject later to the NEPA process, either collectively or on a case-by-case basis.'') NOAA considered the list of extraordinary circumstances and determined that none would be triggered by this final rule. Therefore, NOAA determined that this final rule would not result in significant effects to the human environment and is categorically excluded from the need to prepare an EA.

B. Executive Orders 12866 and 13563

This rule has been determined to be not significant within the meaning of Executive Order 12866. The rule is part of NOAA's effort to carry out the directive under Executive Order 13563 for retrospective regulatory review.

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

Pursuant to Executive Order 13175, NOAA consults with federally-recognized tribes on actions that may have tribal implications. NOAA determined that the amendments to the Olympic Coast NMS permitting regulations in the consolidation of permit procedures and review criteria into the new subpart D, although not resulting in a substantive change to permitting requirements, could be perceived as having tribal implications because some of the regulatory text is specific to the federally-recognized tribes along the Washington Coast (Coastal Treaty Tribes). Therefore, we have determined that this regulation has tribal implications as defined in Executive Order 13175. NOAA certifies that this final rule was developed after meaningful consultation and collaboration with tribal representatives in accordance with Executive Order 13175. NOAA engaged in government-to-government consultation with tribal representatives from the Makah, Hoh and Quileute Indian Tribes and the Quinault Indian Nation of the Olympic Coast Intergovernmental Policy Council (IPC). NOAA determined that this regulatory action did not have implications for any other federally-recognized tribes at other sites.

In January 2012, NOAA initiated a dialogue with the Coastal Treaty Tribes for a potential rulemaking action that would revise and consolidate program-wide and site-specific regulations. ONMS staff presented initial items for consideration by the IPC and its members at a February 8, 2012, meeting. In May 2012, NOAA addressed initial concerns that were raised at the February meeting, provided a summary of the proposed regulatory changes, and invited the IPC members to consult if there were concerns about the general proposals. In October 2012, NOAA provided more detailed information, including pre-release draft regulatory language for program-wide regulations and Olympic Coast NMS site-specific regulations that could be of interest to the tribes. After the proposed rule was published in the **Federal Register**, NOAA forwarded the notice to the Washington Coast treaty tribes on February 15, 2013.

The Makah Tribe provided comments on the proposed rule that raised three priority issues. In addition to the matter noted in the ''IV Responses to Comments'' section of the interim final rule, the Makah Tribe reiterated its long-standing position about the role of the Regional Fishery Management Councils (RFMCs) in fisheries management, which did not require action in this rulemaking. The Makah Tribe also expressed interest in improved tribal involvement in the consideration of Olympic Coast NMS permit applications. Since the publication of the 2013 proposed rule, Olympic Coast NMS and the Makah Tribe engaged in government-to-government consultation in the development of a joint ''Protocol for Permit Consultation'' (dated April 10, 2015) that specifies the procedures by which consultation and coordinated communication will occur between the Makah Tribe and Olympic Coast NMS staff. The sanctuary staff and tribal representatives meet periodically to engage in permit consultations on ONMS permit applications, and the results of these meetings are included in ONMS permit decision documents. In addition, the Makah Tribe and ONMS have developed a protocol to engage in consultation as part of the NMSA section 304(d) interagency consultation process and have implemented the protocol in two recent sanctuary consultations. Olympic Coast NMS staff regularly engages with the Washington Coast treaty tribes on various initiatives of mutual interest.

[2] In 1978, the White House Council on Environmental Quality (CEQ) issued regulations, codified at 40 CFR parts 1500–1508, to implement NEPA. 43 FR 55977 (Nov. 29, 1978). Most recently, the CEQ updated the NEPA regulations. 85 FR 43304 (Jul. 16, 2020) (codified at 40 CFR parts 1500–1508, 1515–1518). Pursuant to those updated NEPA regulations, NEPA reviews initiated prior to September 14, 2020 may be conducted using the 1978 version of the regulations. The effective date of the 2020 CEQ NEPA Regulations was September 14, 2020. This review began before January 13, 2013, and NOAA has decided to proceed under the 1978 regulations.

D. Executive Order 13132: Federalism Assessment

NOAA has concluded this regulatory action does not have federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 13132.

E. Paperwork Reduction Act

This rule does not create any new information collection requirements, nor does it change existing information collection requirements approved by the Office of Management and Budget (OMB Control Number 0648–0141) under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* (PRA). There are no changes to the reporting burden as a result of these regulatory changes. Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

F. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires Federal agencies to prepare an analysis of a rule's impact on small entities whenever the agency is required to publish a rule, unless the head of the agency can certify, pursuant to 5 U.S.C. 605(b), that the action will not have a significant economic impact on a substantial number of small entities.

Pursuant to section 605(b), the Chief Counsel for Regulations for the Department of Commerce, certified to the Office of Advocacy of the Small Business Administration during the 2013 proposed rule stage and the 2022 interim rule stage that the regulations would not have a significant economic impact on a substantial number of small entities. The factual basis for certification was published in the proposed rule (78 FR 5998, 6009; January 18, 2011) and in the interim final rule (87 FR 29606, 29625; May 13, 2022). No public comments were received regarding this certification. Therefore, a regulatory flexibility analysis was not required and none was prepared.

List of Subjects in 15 CFR Part 922

Administrative practice and procedure, Amendments, Appeals, Appellant, Application requirements, Authorizations, Definitions, Designation, Environmental protection, Marine resources, Natural resources, Permitting, Permit procedures, Prohibited activities, Special use permit, Stowed and not available for immediate use, Resources, Research, Traditional fishing, Water resources.

Nicole R. LeBoeuf,

Assistant Administrator for Ocean Services and Coastal Zone Management, National Ocean Service, National Oceanic and Atmospheric Administration.

Accordingly, for the reasons set forth above, 15 CFR part 922 is amended as follows:

PART 922—NATIONAL MARINE SANCTUARY PROGRAM REGULATIONS

■ 1. The authority citation for part 922 continues to read as follows:

Authority: 16 U.S.C. 1431 *et seq.*

Subpart B [Removed and Reserved]

■ 2. Remove and reserve subpart B, consisting of §§ 922.910 and 922.911.

■ 3. Revise subpart A to read as follows:

Subpart A—Regulations of General Applicability

Sec.

§ 922.1 Purposes and applicability of the regulations.

(a) The purposes of this part are:

(1) To implement title III of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended (16 U.S.C. 1431 *et seq.,* also known as the National Marine Sanctuaries Act (NMSA or Act)), the Florida Keys National Marine Sanctuary and Protection Act (FKNMSPA) (Pub. L. 101–605) and the Hawaiian Islands National Marine Sanctuary Act (sections 2301–2307 of Pub. L. 102–587); and

(2) To implement the designations of the national marine sanctuaries, for which site specific regulations appear in subparts F through T of this part, by regulating activities affecting them, consistent with their respective terms of designation, in order to protect, restore, preserve, manage, and thereby ensure the health, integrity and continued availability of the conservation, recreational, ecological, historical, scientific, educational, cultural, archeological and aesthetic resources and qualities of these areas.

(b) The regulations of this part are binding on any person subject to the jurisdiction of the United States. Designation of a national marine sanctuary beyond the U.S. territorial sea does not constitute any claim to territorial jurisdiction on the part of the United States. The regulations of this part shall be applied in accordance with generally recognized principles of international law,[1] and in accordance with treaties, conventions, and other agreements to which the United States is a party. No regulation of this part shall apply to a person who is not a citizen, national, or resident alien of the United States, unless in accordance with:

(1) Generally recognized principles of international law;

(2) An agreement between the United States and the foreign state of which the person is a citizen; or

(3) An agreement between the United States and the flag state of the foreign vessel, if the person is a crew member of the vessel.

(c) Unless noted otherwise, the regulations in this subpart and subpart D of this part apply to all national marine sanctuaries immediately upon designation.

§ 922.2 Mission, goals, and special policies.

(a) In accordance with the standards set forth in the Act, the mission of the Office of National Marine Sanctuaries (Office) is to identify, designate, protect, restore, and manage areas of the marine environment of special national, and in some cases international, significance due to their conservation, recreational, ecological, historical, scientific, educational, cultural, archeological, or aesthetic resources and qualities.

(b) The goal of the Office is to carry out the mission of the Act in a manner consistent with the purposes and policies of the Act (16 U.S.C. 1431(b)); the Florida Keys National Marine Sanctuary and Protection Act (Pub. L. 101–605) which designated Florida Keys National Marine Sanctuary; the Hawaiian Islands National Marine Sanctuary and Protection Act (Pub. L. 102–587), which designated Hawaiian Islands Humpback Whale National Marine Sanctuary; the Oceans Act of 1992 (Pub. L. 102–587), which

[1] Based on the legislative history of the NMSA, NOAA has long interpreted the text of 16 U.S.C. 1435(a) as encompassing international law, including customary international law.

designated Stellwagen Bank National Marine Sanctuary; and the National Marine Sanctuaries Preservation Act of 1996 (Pub. L. 104–283), which added Stetson Bank to Flower Garden Banks National Marine Sanctuary.

(c) Management efforts will be coordinated to the extent practicable with other countries managing marine protected areas;

(d) Program regulations, policies, standards, guidelines, and procedures developed pursuant to the Act concerning the identification, evaluation, registration, and treatment of historical resources shall be consistent, to the extent practicable, with the declared national policy for the protection and preservation of these resources as stated in the National Historic Preservation Act of 1966, 54 U.S.C. 300101 *et seq.,* the Archeological and Historical Preservation Act of 1974, 54 U.S.C. 312501 *et seq.,* and the Archeological Resources Protection Act of 1979 (ARPA), 16 U.S.C. 470aa *et seq.* The same degree of regulatory protection and preservation planning policy extended to historical resources on land shall be extended, to the extent practicable, to historical resources in the marine environment within the boundaries of designated national marine sanctuaries. The management of historical resources under the authority of the Act shall be consistent, to the extent practicable, with the Federal archeological program by consulting the Uniform Regulations, ARPA (43 CFR part 7) and other relevant Federal regulations. The Secretary of the Interior's Standards and Guidelines for Archeology may also be consulted for guidance.

§ 922.3 Issuance of regulations for fishing.

If a proposed Sanctuary includes waters within the exclusive economic zone, the Secretary shall notify the appropriate Regional Fishery Management Council(s). The appropriate Council(s) shall have one hundred and eighty (180) days from the date of such notification to make recommendations and, if appropriate, prepare draft fishing regulations for the area within the exclusive economic zone and submit them to the Secretary. In preparing its recommendations and draft regulations, the Council(s) shall use as guidance the national standards of section 301(a) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1851) to the extent that they are consistent and compatible with the goals and objectives of the proposed Sanctuary designation. Any fishing activities not proposed for regulation under section 304(a)(5) of the NMSA may be listed in the draft Sanctuary designation document as being subject to regulation, without following the procedures specified in section 304(a)(5) of the NMSA. If the Secretary subsequently determines that regulation of fishing is necessary, then NOAA will follow the procedures specified in section 304(a)(5) of the NMSA.

§ 922.4 Boundaries.

The boundaries for each of the fifteen National Marine Sanctuaries covered by this part are described in subparts F through T, respectively.

§ 922.5 Allowed activities.

All activities (*e.g.,* fishing, boating, diving, research, education) may be conducted unless prohibited or otherwise regulated in subparts F through T of this part, subject to any emergency regulations promulgated pursuant to § 922.7, § 922.112(b), § 922.165, § 922.185, § 922.196, § 922.204, or § 922.214 subject to all prohibitions, regulations, restrictions, and conditions validly imposed by any Federal, State, tribal, or local authority of competent jurisdiction, including, but not limited to, Federal, Tribal, and State fishery management authorities, and subject to the provisions of section 312 of the NMSA. The Director may only directly regulate fishing activities pursuant to the procedure set forth in section 304(a)(5) of the NMSA.

§ 922.6 Prohibited or otherwise regulated activities.

Subparts F through T set forth site-specific regulations applicable to the activities specified therein.

§ 922.7 Emergency regulations.

(a) Where necessary to prevent or minimize the destruction of, loss of, or injury to a Sanctuary resource or quality, or minimize the imminent risk of such destruction, loss, or injury, any and all such activities are subject to immediate temporary regulation, including prohibition.

(b) This section does not apply to the following national marine sanctuaries with site-specific regulations that establish procedures for issuing emergency regulations:

(1) Cordell Bank National Marine Sanctuary, § 922.112(e).

(2) Florida Keys National Marine Sanctuary, § 922.165.

(3) Hawaiian Islands Humpback Whale National Marine Sanctuary, § 922.185.

(4) Thunder Bay National Marine Sanctuary, § 922.196.

(5) Mallows Bay—Potomac River National Marine Sanctuary, § 922.204.

(6) Wisconsin Shipwreck Coast National Marine Sanctuary, § 922.214.

§ 922.8 Penalties.

(a) Each violation of the NMSA or the other statutes designating national marine sanctuaries listed in § 922.2(b), any regulation in this part or any permit issued pursuant thereto, is subject to a civil penalty. Each day of a continuing violation constitutes a separate violation.

(b) Regulations setting forth the procedures governing administrative proceedings for assessment of civil penalties, permit sanctions and denials for enforcement reasons, issuance and use of written warnings, and release or forfeiture of seized property appear at 15 CFR part 904.

§ 922.9 Response costs and damages.

Under section 312 of the Act, any person who destroys, causes the loss of, or injures any Sanctuary resource is liable to the United States for response costs and damages resulting from such destruction, loss, or injury. Any vessel used to destroy, cause the loss of, or injure any Sanctuary resource is liable *in rem* to the United States for response costs and damages resulting from such destruction, loss, or injury.

§ 922.10 Pre-existing authorizations or rights and certifications of pre-existing authorizations or rights.

Any valid lease, permit, license, or right of subsistence use or of access that is in existence on the effective date of final regulations for a designation or revised terms of designation of any National Marine Sanctuary may not be terminated by the Director. The Director may, however, regulate the exercise of such leases, permits, licenses, or rights consistent with the purposes for which the Sanctuary was designated.

§ 922.11 Definitions.

The following definitions shall apply to this part, unless modified by the definitions for a specific subpart or regulation:

Abandoning means leaving without intent to remove any structure, material, or other matter on or in the seabed or submerged lands of a Sanctuary. For Thunder Bay National Marine Sanctuary and Underwater Preserve, abandoning means leaving without intent to remove any structure, material or other matter on the lake bottom associated with underwater cultural resources.

Act or NMSA means title III of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, 16 U.S.C. 1431 *et seq.,* also known as the National Marine Sanctuaries Act.

Assistant Administrator means the Assistant Administrator for Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration (NOAA) or designee.

Attract or attracting means the conduct of any activity that lures or may lure any animal by using food, bait, chum, dyes, decoys (*e.g.,* surfboards or body boards used as decoys), acoustics or any other means, except the mere presence of human beings (*e.g.,* swimmers, divers, boaters, kayakers, surfers).

Benthic community means the assemblage of organisms, substrate, and structural formations found at or near the sea/ocean/lake bottom that is periodically or permanently covered by water.

Clean means not containing detectable levels of harmful matter.

Commercial fishing means any activity that results in the sale or trade for intended profit of fish, shellfish, algae, or corals.

Conventional hook and line gear means any fishing gear composed of a single line terminated by a combination of sinkers and hooks or lures and spooled upon a reel that may be hand, electrically, or hydraulically operated, regardless of whether mounted. This term does not include longlines.

Cruise ship means any vessel with 250 or more passenger berths for hire.

Cultural resource means any historical or cultural feature, including archaeological sites, historic structures, shipwrecks, and artifacts.

Deserting means leaving a vessel aground, adrift, wrecked, junked, or in a substantially dismantled condition without notification to the Director of the vessel going aground or becoming adrift, wrecked, junked, or substantially dismantled within 12 hours of its discovery and developing and presenting to the Director a preliminary salvage plan within 24 hours of such notification; after expressing or otherwise manifesting intention not to undertake or to cease salvage efforts, or when the owner/operator cannot after reasonable efforts by the Director be reached within 12 hours of the vessel's condition being reported to authorities; or leaving a vessel at anchor when its condition creates potential for a grounding, discharge, or deposit and the owner/operator fails to secure the vessel in a timely manner.

Director means, except where otherwise specified, the Director of the Office of National Marine Sanctuaries or designee.

Effective date means the date of final regulations described and published in the **Federal Register**. For regulations governing the designation of a new sanctuary or revising terms of designation, effective date means the date after the close of the review period of the 45th day of continuous session of Congress following submission of the **Federal Register** document of the designation together with final regulations to implement the designation and any other matters required by law, unless the Governor of any state in which the sanctuary is completely or partially located certifies that the designation or any of its terms is unacceptable pursuant to section 304(b) of the National Marine Sanctuaries Act (NMSA) (16 U.S.C. 1434(b)).

Exclusive economic zone means the zone established by Proclamation 5030, dated March 10, 1983, and as defined in the Magnuson-Stevens Fishery Conservation and Management Act, as amended 16 U.S.C. 1801 *et seq.*

Fish means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life other than marine mammals and birds, as defined in the Magnuson-Stevens Fishery Conservation and Management Act, as amended (16 U.S.C. 1802(12)).

Graywater means graywater as defined by section 312 of the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1322.

Harmful matter means any substance, or combination of substances, that because of its quantity, concentration, or physical, chemical, or infectious characteristics may pose a present or potential threat of injury to Sanctuary resources or qualities. Such substances or combination of substances may include, but is not limited to: fishing nets, fishing line, hooks, fuel, oil, and hazardous substances as defined by the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601(14) and designated at 40 CFR 302.4.

Historical resource means any resource possessing historical, cultural, archaeological or paleontological significance, including a site, contextual information, structure, district, and object significantly associated with or representative of earlier people, culture, maritime heritage, and human activities and events. Historical resource includes ''cultural resource,'' ''submerged cultural resource,'' and ''historical property'' as that term is used in the National Historic Preservation Act, as amended, 54 U.S.C. 300101 *et seq.* and its implementing regulations, as amended.

Indian tribe means an Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 5130.

Injure or injury means to change adversely, either in the short or long term, a chemical, biological or physical attribute, or the viability, of a sanctuary resource. This includes, but is not limited to, to cause the loss of or destroy.

Introduced species means any species (including, but not limited to, any of its biological matter capable of propagation) that is non-native to the ecosystems of the Sanctuary; or any organism into which altered genetic matter, or genetic matter from another species, has been transferred in order that the host organism acquires the genetic traits of the transferred genes.

Inventory means a list of selected natural and historical resource sites selected by the Secretary as qualifying for further evaluation for possible designation as National Marine Sanctuaries.

Lawful fishing means fishing authorized by a tribal, State or Federal entity with jurisdiction over the activity.

Lightering means at-sea transfer of petroleum-based products, materials, or other matter from vessel to vessel.

Marine means those areas of coastal and ocean waters, the Great Lakes and their connecting waters, and submerged lands over which the United States exercises jurisdiction, including the exclusive economic zone, consistent with international law.

Mineral means clay, stone, sand, gravel, metalliferous ore, non-metalliferous ore, or any other solid material or other matter of commercial value.

National historic landmark means a district, site, building, structure or object designated as such by the Secretary of the Interior under the National Historic Landmarks Program (36 CFR part 65).

National Marine Sanctuary or Sanctuary means an area of the marine environment of special national significance designated as such by the National Oceanic and Atmospheric Administration (NOAA) pursuant to the Act or by Congress pursuant to legislation.

Person means any private individual, partnership, corporation or other entity; or any officer, employee, agent, department, agency or instrumentality of the Federal government, of any State or local unit of government, or of any foreign government.

Regional Fishery Management Council means any fishery council established under the Magnuson-

Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.*

Sanctuary quality means any of those ambient conditions, physical-chemical characteristics and natural processes, the maintenance of which is essential to the ecological health of a national marine sanctuary, including, but not limited to, water quality, sediment quality, and air quality.

Sanctuary resource means any living or non-living resource of a national marine sanctuary, or the parts or products thereof, that contributes to the conservation, recreational, ecological, historical, educational, cultural, archeological, scientific, or aesthetic value of the national marine sanctuary, including, but not limited to, waters of the sanctuary, the seabed or submerged lands of the sanctuary, other submerged features and the surrounding seabed, carbonate rock, corals and other bottom formations, coralline algae and other marine plants and algae, marine invertebrates, brine-seep biota, phytoplankton, zooplankton, fish, birds, sea turtles and other marine reptiles, marine mammals, and maritime heritage, cultural, archeological, and historical resources. For Thunder Bay National Marine Sanctuary and Underwater Preserve, Sanctuary resource is defined at § 922.191. For Hawaiian Islands Humpback Whale, Sanctuary resource is defined at § 922.182. For Mallows Bay—Potomac River National Marine Sanctuary, Sanctuary resource is defined at § 922.201(a). For Wisconsin Shipwreck Coast National Marine Sanctuary, sanctuary resource is defined at § 922.211.

Seagrass means any species of marine angiosperms (flowering plants) that inhabits a portion of the seabed in a national marine sanctuary. Those species include, but are not limited to: *Zostera asiatica* (Asian eelgrass), *Zostera marina* (eelgrass/common eelgrass); *Thalassia testudinum* (turtle grass); *Syringodium filiforme* (manatee grass); *Halodule wrightii* (shoal grass); *Halophila decipiens* (paddle grass), *H. engelmannii (*Engelmann's seagrass), *H. johnsonii* (Johnson's seagrass); and *Ruppia maritima* (widgeon grass).

Secretary means the Secretary of the United States Department of Commerce, or designee.

Shunt means to discharge expended drilling cuttings and fluids near the ocean seafloor.

State means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, the United States Virgin Islands, Guam, and any other commonwealth, territory, or possession of the United States.

Subsistence use means the customary and traditional use by rural residents of areas near or in the marine environment for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation; for the making and selling of handicraft articles; and for barter, if for food or non-edible items other than money, if the exchange is of a limited and non-commercial nature.

Take (taking or taken) of a marine mammal, sea turtle, or bird means:

(1) Take as that term is defined in section 3(19) of the Endangered Species Act of 1973, as amended, 16 U.S.C. 1532(19) (ESA);

(2) Take as that term is defined in section 3(13) of the Marine Mammal Protection Act of 1972, as amended, 16 U.S.C. 1362(13) (MMPA); or

(3) Conducting an activity prohibited by section 703 of the Migratory Bird Treaty Act of 1918, as amended, 16 U.S.C. 703 (MBTA).

(4) For purposes of paragraphs (1), (2), and (3) of this definition, take also includes, but is not limited to, collection of any dead or injured marine mammal, sea turtle, or bird, or any part thereof; or restraint or detainment of any marine mammal, sea turtle, or bird, no matter how temporarily; tagging any marine mammal, sea turtle, or bird, or operating a vessel or aircraft or conducting any other act that results in the disturbance or molestation of any marine mammal, sea turtle, or bird.

Vessel means a watercraft of any description capable of being used as a means of transportation in or on the waters of a sanctuary. The term includes but is not limited to, motorized and non-motorized watercraft, personal watercraft, airboats, and float planes while maneuvering on the water. For purposes of this part, the terms ''vessel,'' ''watercraft,'' and ''boat'' have the same meaning.

Washington Coast treaty tribe means the Hoh, Makah, or Quileute Indian Tribes or the Quinault Indian Nation.

§ 922.12 Sanctuary nomination process.

(a) The sanctuary nomination process (*see* National Marine Sanctuaries website *www.sanctuaries.noaa.gov*) is the means by which the public can submit areas of the marine and Great Lakes environments for consideration by NOAA as a national marine sanctuary.

(b) The Director will consider the following national significance criteria in determining if a nominated area is of special national significance:

(1) The area's natural resources and ecological qualities are of special significance and contribute to: biological productivity or diversity; maintenance or enhancement of ecosystem structure and function; maintenance of ecologically or commercially important species or species assemblages; maintenance or enhancement of critical habitat, representative biogeographic assemblages, or both; or maintenance or enhancement of connectivity to other ecologically significant resources.

(2) The area contains submerged maritime heritage resources of special historical, cultural, or archaeological significance, that: individually or collectively are consistent with the criteria of eligibility or listing on the National Register of Historic Places; have met or which would meet the criteria for designation as a National Historic Landmark; or have special or sacred meaning to the indigenous people of the region or nation.

(3) The area supports present and potential economic uses, such as: tourism; commercial and recreational fishing; subsistence and traditional uses; diving; and other recreational uses that depend on conservation and management of the area's resources.

(4) The publicly-derived benefits of the area, such as aesthetic value, public recreation, and access to places depend on conservation and management of the area's resources.

(c) The Director will consider the following management considerations in determining the manageability of a nominated area:

(1) The area provides or enhances opportunities for research in marine science, including marine archaeology.

(2) The area provides or enhances opportunities for education, including the understanding and appreciation of the marine and Great Lakes environments.

(3) Adverse impacts from current or future uses and activities threaten the area's significance, values, qualities, and resources.

(4) A national marine sanctuary would provide unique conservation and management value for this area that also have beneficial values for adjacent areas.

(5) The existing regulatory and management authorities for the area could be supplemented or complemented to meet the conservation and management goals for the area.

(6) There are commitments or possible commitments for partnerships opportunities such as cost sharing, office space or exhibit space, vessel time, or other collaborations to aid

conservation or management programs for the area.

(7) There is community-based support for the nomination expressed by a broad range of interests, such as: individuals or locally-based groups (*e.g.,* friends of group, chamber of commerce); local, tribal, state, or national agencies; elected officials; or topic-based stakeholder groups, at the local, regional or national level (*e.g.,* a local chapter of an environmental organization, a regionally-based fishing group, a national-level recreation or tourism organization, academia or science-based group, or an industry association).

(d) Following evaluation of a nomination against the national significance criteria and management considerations, the Director may place nominated areas in a publicly available inventory for future consideration of designation as a national marine sanctuary.

(e) A determination that a site is eligible for national marine sanctuary designation, by itself shall not subject the site to any regulatory control under the Act. Such controls may only be imposed after designation.

§ 922.13 Selection of nominated areas for national marine sanctuary designation.

(a) The Director may select a nominated area from the inventory for future consideration as a national marine sanctuary.

(b) Selection of a nominated area from the inventory shall begin the formal sanctuary designation process. A notice of intent to prepare a draft environmental impact statement shall be published in the **Federal Register** and posted on the Office of National Marine Sanctuaries website. Any designation process will follow the procedures for designation and implementation set forth in section 304 of the Act.

Subpart C [Removed and Reserved]

■ 4. Remove and reserve part 922 subpart C, consisting of §§ 922.20 through 922.25.

■ 5. Revise subpart D to read as follows:

Subpart D—National Marine Sanctuary Permitting

Sec.

§ 922.30 National Marine Sanctuary general permits.

(a) *Authority to issue general permits.* The Director may allow a person to conduct an activity that would otherwise be prohibited by this part through issuance of a general permit, provided the applicant complies with:

(1) The provisions of this subpart; and

(2) The permit procedures and criteria for all national marine sanctuaries in which the proposed activity is to take place in accordance with relevant site specific regulations appearing in subparts F through T of this part.

(b) *Sanctuary general permit categories.* The Director may issue a sanctuary general permit under this subpart and the relevant site-specific subpart, subject to such terms and conditions as he or she deems appropriate, if the Director finds that the proposed activity falls within one of the following categories or a category in the relevant site-specific subpart:

(1) Research—activities that constitute scientific research or scientific monitoring of a national marine sanctuary resource or quality;

(2) Education—activities that enhance public awareness, understanding, or appreciation of a national marine sanctuary or national marine sanctuary resource or quality;

(3) Management—activities that assist in managing a national marine sanctuary;

(4) Jade removal—the removal of loose jade from the Jade Cove area, without the use of pneumatic, mechanical, electrical, hydraulic or explosive tools, within Monterey Bay National Marine Sanctuary that cannot be collected under 15 CFR 922.132(a)(1)(ii) and (iii). Preference will be given for applications proposing to collect loose pieces of jade for research or educational purposes;

(5) Tribal self-determination—activities conducted by a Washington Coast treaty tribe and/or its designee as certified by the governing body of the tribe to promote or enhance tribal self-determination, tribal government functions, the exercise of treaty rights, the economic development of the tribe, subsistence, ceremonial and spiritual activities, or the education or training of tribal members; and

(6) Further FKNMS purposes—activities that further the purposes of Florida Keys National Marine Sanctuary, including those that facilitate multiple use of the sanctuary, to the extent compatible with the primary objective of resource protection.

§ 922.31 National Marine Sanctuary special use permits.

(a) *In general.* A person may conduct a specified special use permit activity, if such activity is specifically authorized by, and is conducted in accordance with the scope, purpose, manner, terms and conditions of, a special use permit issued under this section.

(b) *Authority to issue.* The Director, at his or her discretion, may issue a special use permit in accordance with this subpart and section 310 of the Act (16 U.S.C. 1441).

(c) *Public notice.* The Director will not issue a special use permit for any category of activity unless the Director has published a notice in the **Federal Register** that such category of activity is subject to the requirements of section 310 of the Act.

(d) *Fees.* The Director may assess and collect fees for the conduct of any activity authorized by a special use permit issued pursuant to this section. The fee will be assessed in accordance with § 922.35.

§ 922.32 Application requirements and procedures.

(a) *Submitting applications.* Permit applications must be submitted by mail to the address listed in the subpart for the relevant national marine sanctuary or by electronic means as defined in the instructions for the ONMS permit application. Applicants proposing to conduct an activity in more than one national marine sanctuary should send the application to each NOAA office for the relevant national marine sanctuaries in which the activity is proposed.

(b) *Application requirements.* All applications for a permit under this section must include the following information:

(1) A detailed description of the proposed activity including:

(i) A timetable for completion of the activity;

(ii) A detailed description of the proposed location for the activity; and

(iii) The equipment, personnel and methodology to be employed;

(2) The qualifications and experience of all personnel;

(3) The financial resources available to the applicant to conduct and complete the proposed activity and comply with any terms and conditions deemed necessary;

(4) A statement as to why it is necessary to conduct the activity within a national marine sanctuary;

(5) A description of the potential impacts of the activity, if any, on sanctuary resources and qualities;

(6) A description of the benefits the conduct of the activity would have for

the national marine sanctuary or national marine sanctuary system;

(7) Copies of all other required licenses, permits, approvals, or other authorizations; and

(8) Such other information as the Director may request or is specified in the relevant subpart.

(c) *Additional information.* Upon receipt of an application, and as part of the evaluation of the permit application, the Director may:

(1) Request such additional information as he or she deems necessary to act on the application;

(2) Require a site visit; and

(3) Seek the views of any persons.

(d) *Time limit for submitting additional information.* Unless otherwise specified in writing by the Director, any information requested by the Director under paragraph (c) of this section must be received by the Director within 30 days of the postmark date of the request or, if email, the date of the email. Failure to provide such additional information may be deemed by the Director to constitute withdrawal of the permit application.

(e) *Incomplete applications.* The Director may consider an application incomplete, and therefore may refuse to further consider the application, if the applicant:

(1) Has failed to submit any of the information required under paragraph (b) of this section;

(2) Has failed to submit any of the information requested by the Director under paragraph (c) of this section;

(3) Has failed to pay any outstanding penalties that resulted from a violation of this part; or

(4) Has failed to fully comply with a permit issued pursuant to this subpart.

§ 922.33 Review procedures and evaluation.

(a) *Review criteria.* In addition to any relevant site-specific permit review criteria, the Director shall not issue a permit under this subpart or the relevant subpart, unless he or she also finds that:

(1) The proposed activity will be conducted in a manner compatible with the primary objective of protection of national marine sanctuary resources and qualities, taking into account the following factors: the extent to which the conduct of the activity may diminish or enhance national marine sanctuary resources and qualities; and any indirect or cumulative effects of the activity;

(2) It is necessary to conduct the proposed activity within the national marine sanctuary to achieve its stated purpose;

(3) The methods and procedures proposed by the applicant are appropriate to achieve the proposed activity's stated purpose and avoid, minimize, or otherwise mitigate adverse effects on sanctuary resources and qualities as much as possible;

(4) The duration of the proposed activity and its effects are no longer than necessary to achieve the activity's stated purpose;

(5) The expected end value of the activity to the furtherance of national marine sanctuary goals and purposes outweighs any potential adverse impacts on sanctuary resources and qualities from the conduct of the activity;

(6) The applicant is professionally qualified to conduct and complete the proposed activity;

(7) The applicant has adequate financial resources available to conduct and complete the proposed activity and terms and conditions of the permit;

(8) There are no other factors that would make the issuance of a permit for the activity inappropriate; and

(9) For Olympic Coast National Marine Sanctuary, the activity as proposed does not adversely affect any Washington Coast treaty tribe.

(b) *Permit terms and conditions.* The Director, at his or her discretion, may subject a permit issued under this subpart or other relevant subpart to such terms and conditions as he or she deems appropriate. A permit granted pursuant to this subpart is nontransferable.

(c) *Permit actions.* The Director may amend, suspend, or revoke a permit issued pursuant to this part or other relevant subpart for good cause. Procedures governing permit sanctions and denials for enforcement reasons are set forth in subpart D of 15 CFR part 904.

(d) *Denial of permit application.* The Director may deny a permit application, in whole or in part, if it is determined that:

(1) The proposed activity does not meet the review criteria specified in this subpart or the relevant subpart of any national marine sanctuary in which the proposed activity is to take place;

(2) The permittee or applicant has acted in violation of the terms and conditions of a permit issued under this subpart or the relevant subpart of any national marine sanctuary in which the proposed activity is to take place;

(3) The permittee or applicant has acted in violation of any regulation set forth in this subpart, the NMSA, or the FKNMSPA;

(4) The proposed activity has resulted in unforeseen adverse impacts to Sanctuary resources or qualities; or

(5) For other good cause.

(e) *Communication of actions and denials.* Any action taken by the Director under paragraphs (c) and (d) of this section shall be communicated in writing to the permittee or applicant and shall set forth the reason(s) for the action taken.

§ 922.34 Permit amendments.

(a) *Request for amendments.* Any person who has been issued a permit under this part (a permittee) may request to amend the permit at any time while that permit is valid. For purposes of this section, a permit time extension is treated as a permit amendment. A request for permit amendment must be submitted to the same NOAA office(s) as the original permit and include sufficient information to describe the requested amendment and any additional supporting information.

(b) *Review of amendment requests.* After receiving the permittee's request for amendment, the Director will:

(1) Review all reports submitted by the permittee as required by the permit terms and conditions; and

(2) Request such additional information as may be necessary to evaluate the request.

(c) *Denial of amendment request.* The Director may deny a permit amendment request, in whole or in part, if it is determined that:

(1) The proposed activity does not meet the review criteria specified in this subpart or the relevant subpart of any national marine sanctuary in which the proposed activity is to take place;

(2) The permittee or applicant has acted in violation of the terms or conditions of a permit issued under this subpart or the relevant subpart of any national marine sanctuary in which the proposed activity is to take place;

(3) The permittee or applicant has acted in violation of any regulation set forth in this subpart, the NMSA, or the FKNMSPA;

(4) The proposed activity has resulted in unforeseen adverse impacts to Sanctuary resources or qualities; or

(5) For other good cause.

§ 922.35 Special use permit fees.

(a) *Authority to assess fees.* The Director may assess a fee for the conduct of any activity authorized under a special use permit issued under § 922.31. The Director may collect assessed fees through agreement with the permit applicant. No special use permit may be effective until all assessed fees are received unless otherwise provided by the Director by a fee schedule set forth as a permit condition.

(b) *Components of permit fees.* A fee assessed under this section may include:

(1) All costs incurred, or expected to be incurred, in reviewing and processing the permit application, including, but not limited to, costs for:

(i) Personnel;

(ii) Personnel hours;

(iii) Equipment;

(iv) Environmental analysis, assessment or consultation;

(v) Copying; and

(vi) Overhead costs directly related to reviewing and processing the permit application;

(2) All costs incurred, or expected to be incurred, as a direct result of the conduct of the activity for which the permit is being issued, including, but not limited to:

(i) The cost of monitoring the conduct both during the activity and after the activity is completed in order to assess the impacts to sanctuary resources and qualities;

(ii) The use of an official NOAA observer, including travel and expenses and personnel hours; and

(iii) Overhead costs directly related to the permitted activity; and

(3) An amount which represents the fair market value of the use of the sanctuary resource.

§ 922.36 National Marine Sanctuary authorizations.

(a) *Authority to issue authorizations.* The Director may authorize a person to conduct an activity otherwise prohibited by subparts L through P or subpart R of this part, if such activity is specifically allowed by any valid federal, state, or local lease, permit, license, approval, or other authorization (hereafter called ''agency approval'') issued after the effective date of sanctuary designation or expansion, provided the applicant complies with the provisions of this section. Such an authorization by ONMS is hereafter referred to as an ''ONMS authorization.''

(b) *Authorization notification to the Director*—(1) *Notification requirement.* An applicant must notify the Director in writing of the request for an ONMS authorization of an agency approval. The Director may treat an amendment or extension of such an agency approval as constituting a new agency approval for purposes of this section.

(i) Notification must occur within fifteen days after the date the applicant files of filing of the application for the agency approval.

(ii) Notification must be sent to the Director, Office of National Marine Sanctuaries, to the attention of the relevant Sanctuary Superintendent(s) at the address specified in subparts L through P, or subpart R through S, as appropriate.

(iii) A copy of the application for the agency approval must accompany the notification.

(2) *Director's response to notification.* The Director shall respond in writing to the applicant and provide periodic updates on pending ONMS authorization request.

(c) *Authorization review procedures and evaluation*—(1) *Additional information.* The Director may request additional information from the applicant as the Director deems reasonably necessary to determine whether to issue an ONMS authorization and what terms and conditions are reasonably necessary to protect sanctuary resources and qualities.

(i) The information requested must be received by the Director within 45 days of the postmark date of the Director's request.

(ii) The Director may seek the views of any persons on the application.

(2) *Review criteria.* The Director shall consider the review criteria in § 922.33(a)(1) through (9) when deciding whether to issue an ONMS authorization.

(3) *Director's response.* The Director shall respond in writing to the applicant to inform the applicant of the Director's decision regarding the authorization request.

(i) The Director may deny a request for an ONMS authorization and shall provide the reason(s) therefore. If the Director denies a request for an ONMS authorization, the applicant remains prohibited from conducting the activity in the sanctuary.

(ii) The Director may issue an ONMS authorization containing terms and conditions deemed reasonably necessary to protect sanctuary resources and qualities. Failure to comply with an ONMS authorization constitutes a violation of the NMSA and these regulations, which may result in an enforcement action and assessment of penalties.

(d) *Authorization actions.* The Director may amend, suspend, or revoke an ONMS authorization issued pursuant to this part for good cause. Procedures governing ONMS sanctions and denials for enforcement reasons are set forth in subpart D of 15 CFR part 904.

(e) *Communication of actions and denials.* Any action taken by the Director under paragraphs (c) and (d) of this section to deny, amend, suspend, or revoke an ONMS authorization shall be communicated in writing to the permittee or applicant and shall set forth the reason(s) for the action taken.

(f) *Time limits.* Any time limit prescribed in or established under this section may be extended by the Director for good cause.

§ 922.37 Appeals of permitting decisions.

(a) *Potential appellant.* The following person may appeal an action listed in paragraph (b) of this section (hereinafter referred to as ''appellant''):

(1) An applicant or holder of a certification of any existing lease, permit, license, or right of subsistence use or of access pursuant to § 922.10;

(2) An applicant or a holder of a National Marine Sanctuary permit issued pursuant to § 922.30 or pursuant to site-specific regulations appearing in subparts F through T of this part;

(3) An applicant or a holder of a special use permit issued pursuant to section 310 of the Act and § 922.31; and

(4) An applicant or a holder of an ONMS authorization of an agency approval issued by any Federal, State, or local authority of competent jurisdiction pursuant to § 922.36.

(5) For those National Marine Sanctuaries described in subparts F through K and S and T of this part, any interested person may also appeal the same actions described in paragraph (b)(1) of this section.

(b) *Actions that may be appealed.* An appellant may appeal the following actions to the Assistant Administrator:

(1) The denial, conditioning, amendment, suspension, or revocation by the Director of a general permit pursuant to § 922.30 or other relevant subpart, special use permit pursuant to section 310 of the Act and § 922.31, or an ONMS authorization issued pursuant to § 922.36; or a certification under § 922.10.

(2) Reserved.

(c) *Appeal requirements.* Appeals must be made in writing to the Assistant Administrator for Ocean Services and Coastal Zone Management, NOAA, 1305 East-West Highway, 13th Floor, Silver Spring, MD 20910 and must:

(1) State the action(s) by the Director being appealed;

(2) State the reason(s) for the appeal; and

(3) Be received within 30 days of the appellant's receipt of notice of the action by the Director.

(d) *Appeal procedures.* (1) The Assistant Administrator may request the appellant submit such information as the Assistant Administrator deems necessary in order to render a decision on the appeal. The information requested must be received by the Assistant Administrator within 45 days of the postmark date of the request.

(2) The Assistant Administrator may seek the views of any other persons when deciding an appeal.

(3) The Assistant Administrator may hold an informal hearing. If an informal hearing is held:

(i) The Assistant Administrator may designate an officer before whom the hearing shall be held;

(ii) The hearing officer shall give notice in the **Federal Register** of the time, place and subject matter of the hearing;

(iii) The appellant and Director may appear personally or by counsel at the hearing and submit such material and present such arguments as deemed appropriate by the hearing officer; and

(iv) The hearing officer shall recommend a decision in writing to the Assistant Administrator within 60 days after the record for the hearing closes.

(e) *Deciding an appeal.* (1) The Assistant Administrator shall decide the appeal using the same regulatory criteria as for the initial decision and shall base the appeal decision on the record before the Director and any information submitted at the Assistant Administrator's request pursuant to paragraph (d)(1) or (2) of this section, regarding the appeal, and, if a hearing has been held, on the record before the hearing officer and the hearing officer's recommended decision.

(2) The Assistant Administrator shall notify the appellant of the final decision and the reason(s) therefore in writing.

(3) The Assistant Administrator's decision shall constitute final agency action for purposes of the Administrative Procedure Act.

(f) *Authority to extend time limits.* Any time limit prescribed in or established under this section other than the 30-day limit for filing an appeal pursuant to paragraph (c)(3) of this section may be extended by the Assistant Administrator for good cause.

Subpart E [Removed and Reserved]

■ 6. Remove and reserve subpart E, consisting of §§ 922.40 through 922.50.

Subpart F—Monitor National Marine Sanctuary

■ 7. Revise § 922.60 to read as follows:

§ 922.60 Boundary.

The Monitor National Marine Sanctuary (Sanctuary) consists of a vertical water column in the Atlantic Ocean one mile in diameter (0.593 square nautical miles (nmi^2) or (0.785 sq. mi.)) extending from the surface to the seabed, the center of which is at the following coordinates 35.00639, –75.40889.

■ 8. Revise § 922.62 to read as follows:

§ 922.62 Permit procedures.

(a) A person may conduct an activity otherwise prohibited by § 922.61 if such activity is specifically authorized by and conducted in accordance with the scope, purpose, terms and conditions of a permit issued under this section and subpart D of this part.

(b) Applications for permits should be addressed to the Director, Office of National Marine Sanctuaries; ATTN: Superintendent, Monitor National Marine Sanctuary, c/o The Mariners' Museum, 100 Museum Drive, Newport News, VA 23606.

(c) In addition to the requirements of subpart D of this part, the Director may not issue a permit under this section unless the Director also finds that the extent to which the conduct of the proposed activity may diminish the value of the Monitor as a source of historic, cultural, aesthetic and/or maritime information is appropriate in relation to goals of the proposed activity.

(d) In considering any application submitted pursuant to this section, the Director shall seek and consider the views of the Advisory Council on Historic Preservation.

Subpart G—Channel Islands National Marine Sanctuary

■ 9. Amend § 922.70 by revising the first sentence to read as follows:

§ 922.70 Boundary.

The Channel Islands National Marine Sanctuary (Sanctuary) consists of an area of approximately 1,110 square nautical miles (nmi^2) (1,470 sq. mi.) of coastal and ocean waters, and the submerged lands thereunder, off the southern coast of California. * * *

■ 10. Amend § 922.71 by:

■ a. Revising the introductory text; and

■ b. Removing the definitions of ''Cruise ship'', ''Graywater'', and ''Introduced species''.

The revision reads as follows:

§ 922.71 Definitions.

In addition to those definitions found at § 922.11, the following definitions apply to this subpart:

* * * * *

■ 11. Amend § 922.72 by revising paragraph (c) to read as follows:

§ 922.72 Prohibited or otherwise regulated activities-Sanctuary wide.

* * * * *

(c) The prohibitions in paragraphs (a)(3) through (10) and (12) and (13) of this section and in § 922.73 do not apply to any activity specifically authorized by and conducted in accordance with the scope, purpose, terms, and conditions of a National Marine Sanctuary permit issued pursuant to subpart D of this part and § 922.74.

* * * * *

■ 12. Revise § 922.74 to read as follows:

§ 922.74 Permit procedures.

(a) A person may conduct an activity otherwise prohibited by § 922.72 or § 922.73 if the activity is specifically authorized by and conducted in accordance with the scope, purpose, terms, and conditions of a permit issued under this section and subpart D of this part.

(b) Permit applications should be addressed to the Director, Office of National Marine Sanctuaries; ATTN: Superintendent, Channel Islands National Marine Sanctuary, University of California Santa Barbara, Ocean Science Education Building 514, MC 6155, Santa Barbara, CA 93106–6155.

Subpart H—Greater Farallones National Marine Sanctuary

■ 13. Amend § 922.80 by revising the first sentence in paragraph (a) to read as follows:

§ 922.80 Boundary.

(a) Greater Farallones National Marine Sanctuary (Sanctuary) encompasses an area of approximately 2,488 square nautical miles (nmi^2) (3,295 sq. mi.) of coastal and ocean waters, and submerged lands thereunder, surrounding the Farallon Islands and Noonday Rock along the northern coast of California. * * *

* * * * *

■ 14. Amend § 922.81 by —

■ a. Revising the introductory text; and

■ b. Removing the definitions of ''Attract or attracting'', ''Clean'', ''Deserting'', ''Harmful matter'', ''Introduced species'', and ''Seagrass''.

The revision reads as follows:

§ 922.81 Definitions.

In addition to those definitions found at § 922.11, the following definitions apply to this subpart:

* * * * *

■ 15. Amend § 922.82 by revising paragraphs (c) and (d) to read as follows:

§ 922.82 Prohibited or otherwise regulated activities.

* * * * *

(c) The prohibitions in paragraph (a) of this section do not apply to activities necessary to respond to an emergency threatening life, property or the environment, or except as may be

permitted by the Director in accordance with subpart D of this part.

(d) The prohibitions in paragraphs (a)(2) through (9) and (11) through (16) of this section do not apply to any activity executed in accordance with the scope, purpose, terms, and conditions of a National Marine Sanctuary permit issued in accordance with subpart D of this part and § 922.83, or a special use permit issued pursuant to subpart D of this part.

■ 16. Revise § 922.83 to read as follows:

§ 922.83 Permit procedures.

(a) A person may conduct an activity otherwise prohibited by § 922.82(a)(2) through (9) and (11) through (16) if such activity is specifically authorized by and conducted in accordance with the scope, purpose, terms and conditions of a permit issued under this section and subpart D of this part.

(b) Applications for permits should be addressed to the Director, Office of National Marine Sanctuaries; ATTN: Superintendent, Greater Farallones National Marine Sanctuary, 991 Marine Dr., The Presidio, San Francisco, CA 94129.

Subpart I—Gray's Reef National Marine Sanctuary

■ 17. Revise § 922.90 to read as follows:

§ 922.90 Boundary.

The Gray's Reef National Marine Sanctuary (Sanctuary) consists of approximately 16.68 square nautical miles (nmi^2) (22 sq. mi.) of ocean waters and the submerged lands thereunder, off the coast of Georgia. The Sanctuary boundary includes all waters and submerged lands within the geodetic lines connecting the following coordinates beginning at Point 1 and continuing to each subsequent point in numerical order ending at Point 5. (Coordinates listed are unprojected (geographic) and based on the North American Datum of 1983.):

TABLE 1 TO § 922.90

Point	Latitude	Longitude
1	31.36273	−80.92120
2	31.42106	−80.92120
3	31.42106	−80.82814
4	31.36273	−80.82814
5	31.36273	−80.92120

■ 18. Amend § 922.91 by revising the introductory text to read as follows:

§ 922.91 Definitions.

In addition to those definitions found at § 922.11, the following definitions apply to this subpart:

* * * * *

■ 19. Amend § 92.92 by revising paragraph (a) introductory text and paragraph (c) to read as follows:

§ 922.92 Prohibited or otherwise regulated activities—Sanctuary-wide.

(a) Except as may be necessary for national defense (subject to the terms and conditions of Article 5, Section 2 of the Designation Document) or to respond to an emergency threatening life, property, or the environment, or except as may be permitted by the Director in accordance with subpart D of this part and § 922.93 and § 922.94, the following activities are unlawful for any person to conduct or to cause to be conducted within the Sanctuary:

* * * * *

(c) The prohibitions in this section and in § 922.94 do not apply to any activity conducted under and in accordance with the scope, purpose, terms, and conditions of a National Marine Sanctuary permit issued pursuant to subpart D of this part and § 922.93.

* * * * *

■ 20. Revise § 922.93 to read as follows:

§ 922.93 Permit procedures.

(a) A person may conduct an activity otherwise prohibited by § 922.92(a)(1) through (11) and § 922.94 if the activity is specifically authorized by and conducted in accordance within the scope, purpose, terms and conditions of a permit issued under this section and subpart D of this part.

(b) Applications for such permits should be addressed to the Director, Office of National Marine Sanctuaries; ATTN: Superintendent, Gray's Reef National Marine Sanctuary, 10 Ocean Science Circle, Savannah, GA 31411.

Subpart J—National Marine Sanctuary of American Samoa

■ 21. Amend § 922.101 by revising the introductory text and paragraph (a) to read as follows:

§ 922.101 Boundary.

The Sanctuary is comprised of six distinct units, forming a network of marine protected areas around the islands of the Territory of American Samoa. Tables containing the exact coordinates of each point described below can be found in Appendix to Subpart J—National Marine Sanctuary of American Samoa Boundary Coordinates. The total areal estimate of the six units combined is 10,255 nmi^2 (13,581 sq. mi.).

(a) *Fagatele Bay Unit.* The Fagatele Bay unit is a coastal embayment formed by a collapsed volcanic crater on the island of Tutuila, Territory of American Samoa, and includes Fagatele Bay in its entirety. The landward boundary is defined by the mean high high water line of Fagatele Bay until the point at which it intersects the seaward boundary of the Sanctuary as defined by a straight line between Fagatele Point (−14.36527, −170.76932) and Steps Point (−14.37291, −170.76056) from the point at which it intersects the mean high high water line seaward.

* * * * *

■ 22. Amend § 922.102 by—

■ a. Revising the introductory text; and

■ b. Removing the definitions of ''Clean'', ''Fishing'', ''Harmful matter'', and ''Introduced species''.

The revision reads as follows:

§ 922.102 Definitions.

In addition to those definitions found at § 922.11, the following definitions apply to this subpart:

* * * * *

■ 23. Amend § 922.103 by revising paragraph (e) to read as follows:

§ 922.103 Prohibited or otherwise regulated activities—Sanctuary-wide.

* * * * *

(e) The prohibitions in paragraphs (a)(2) through (15) of this section and §§ 922.104 and 922.105 do not apply to any activity conducted under and in accordance with the scope, purpose, terms, and conditions of a National Marine Sanctuary permit issued pursuant to subpart D of this part and § 922.107.

■ 24. Revise § 922.107 to read as follows:

§ 922.107 Permit procedures.

(a) Any person in possession of a valid permit issued by the Director, in consultation with the ASDOC, in accordance with this section and subpart D of the part may conduct an activity otherwise prohibited by §§ 922.103, 922.104, and 922.105 in the Sanctuary.

(b) Permit applications shall be addressed to the Director, Office of National Marine Sanctuaries; ATTN: Sanctuary Superintendent, American Samoa National Marine Sanctuary, P.O. Box 4318, Pago Pago, AS 96799.

Subpart K—Cordell Bank National Marine Sanctuary

■ 25. Amend § 922.110 by revising the first sentence to read as follows:

§ 922.110 Boundary.

The Cordell Bank National Marine Sanctuary (Sanctuary) boundary encompasses a total area of approximately 971 square nautical miles (nmi^2) (1,286 sq. mi.) of offshore ocean waters, and submerged lands thereunder, surrounding the submarine plateau known as Cordell Bank along the northern coast of California, approximately 45 nautical miles west-northwest of San Francisco, California.
* * *

§ 922.111 [Removed and Reserved]

■ 26. Remove and reserve § 922.111.

■ 27. Amend § 922.112 by revising paragraphs (b) and (d) as follows:

§ 922.112 Prohibited or otherwise regulated activities.

* * * * *

(b) The prohibitions in paragraph (a) of this section do not apply to activities necessary to respond to an emergency threatening life, property or the environment, or except as may be permitted by the Director in accordance with subpart D of this part and § 922.113.

* * * * *

(d) The prohibitions in paragraphs (a)(2) through (7) of this section do not apply to any activity executed in accordance with the scope, purpose, terms, and conditions of a National Marine Sanctuary permit issued pursuant to subpart D of this part and § 922.113, or a special use permit issued pursuant to subpart D of this part.

* * * * *

■ 28. Revise § 922.113 to read as follows:

§ 922.113 Permit procedures.

(a) A person may conduct an activity otherwise prohibited by § 922.112(a)(2) through (7) if the activity is specifically authorized by and conducted in accordance with the scope, purpose, terms and conditions of a permit issued under this section and subpart D of this part.

(b) Applications for permits should be addressed to the Director, Office of National Marine Sanctuaries; ATTN: Superintendent, Cordell Bank National Marine Sanctuary, P.O. Box 159, Olema, CA 94950.

Subpart L—Flower Garden Banks National Marine Sanctuary

■ 29. Amend § 922.121 by—

■ a. Revising the introductory text; and

■ b. Removing the definitions of ''Attract or attracting'' and ''Clean''.

The revision reads as follows:

§ 922.121 Definitions.

In addition to those definitions found at § 922.11, the following definitions applies to this subpart:

* * * * *

■ 30. Amend § 922.122 by revising paragraphs (a)(7), (f) and (h) to read as follows:

§ 922.122 Prohibited or otherwise regulated activities.

(a) * * *

(7) Injuring, catching, harvesting, collecting or feeding, or attempting to injure, catch, harvest, collect or feed, any fish within the Sanctuary by use of longlines, traps, nets, bottom trawls or any other gear, device, equipment or means except by use of conventional hook and line gear.

* * * * *

(f) The prohibitions in paragraphs (a)(2) through (10) of this section do not apply to any activity specifically authorized by and conducted in accordance with the scope, purpose, terms, and conditions of a National Marine Sanctuary permit or ONMS authorization issued pursuant to subpart D of this part and § 922.123 or a special use permit issued pursuant to subpart D of this part.

* * * * *

(h) Notwithstanding paragraphs (f) and (g) of this section, in no event may the Director issue a National Marine Sanctuary permit under subpart D of this part and § 922.123 authorizing, or otherwise approve, the exploration for, development of, or production of oil, gas, or minerals in a no-activity zone. Any leases, permits, approvals, or other authorizations authorizing the exploration for, development of, or production of oil, gas, or minerals in a no-activity zone and issued after January 18, 1994 shall be invalid.

■ 31. Revise § 922.123 to read as follows:

§ 922.123 Permit procedures.

(a) A person may conduct an activity otherwise prohibited by § 922.122(a)(2) through (10) if such activity is specifically authorized by and conducted in accordance with the scope, purpose, terms, and conditions of a permit issued under this section and subpart D of this part.

(b) Applications for such permits should be addressed to the Director, Office of National Marine Sanctuaries; ATTN: Superintendent, Flower Garden Banks National Marine Sanctuary, 4700 Avenue U, Building 216, Galveston, TX 77551.

Subpart M—Monterey Bay National Marine Sanctuary

■ 32. Amend § 922.130 by revising the introductory text, paragraph (a), and the first sentence of paragraph (b) to read as follows:

§ 922.130 Boundary.

The Monterey Bay National Marine Sanctuary (Sanctuary) consists of two separate areas. The combined area of both parts is approximately 4,601 square nautical miles (nmi^2) (6,093 sq. mi.).

(a) The first area consists of an area of approximately 4,016 square nautical miles (nmi^2) (5,318 sq. mi.) of coastal and ocean waters, and submerged lands thereunder, in and surrounding Monterey Bay off the central coast of California.

* * * * *

(b) The Davidson Seamount Management Zone is also part of the Sanctuary. This area, bounded by geodetic lines connecting a rectangle centered on the top of the Davidson Seamount, consists of approximately 585 square nmi (nmi^2) (774 sq. mi.) of ocean waters and the submerged lands thereunder. * * *

■ 33. Amend § 922.131 by—

■ a. Revising the introductory text; and

■ b. Removing the definitions of ''Attract or attracting'', ''Clean'', ''Cruise ship'', ''Deserting'', ''Harmful matter'', and ''Introduced species''.

The revision reads as follows:

§ 922.131 Definitions.

In addition to those definitions found at § 922.11, the following definitions apply to this subpart:

* * * * *

■ 34. Amend § 922.132 by revising paragraphs (c)(1) and (d) through (f) to read as follows:

§ 922.132 Prohibited or otherwise regulated activities.

* * * * *

(c)(1) All Department of Defense activities must be carried out in a manner that avoids to the maximum extent practicable any adverse impacts on Sanctuary resources and qualities. The prohibitions in paragraphs (a)(2) through (11) and (13) of this section do not apply to existing military activities carried out by the Department of Defense, as specifically identified in the Final Environmental Impact Statement and Management Plan for the Proposed Monterey Bay National Marine Sanctuary (NOAA, 1992). (Copies of the FEIS/MP are available from the Monterey Bay National Marine Sanctuary, 99 Pacific Street, Bldg. 455A, Monterey, California 93940.) For

purposes of the Davidson Seamount Management Zone, these activities are listed in the 2008 Final Environmental Impact Statement. New activities may be exempted from the prohibitions in paragraphs (a)(2) through (11) and (13) of this section by the Director after consultation between the Director and the Department of Defense.

* * * * *

(d) The prohibitions in paragraph (a)(1) of this section as it pertains to jade collection in the Sanctuary, and paragraphs (a)(2) through (11) and (13) of this section, do not apply to any activity specifically authorized by and conducted in accordance with the scope, purpose, terms, and conditions of a National Marine Sanctuary permit issued pursuant to subpart D of this part and § 922.133 or a special use permit issued pursuant to subpart D of this part.

(e) The prohibitions in paragraphs (a)(2) through (13) of this section do not apply to any activity authorized by any lease, permit, license, approval, or other authorization issued after the effective date of Sanctuary designation (January 1, 1993) and issued by any Federal, State, or local authority of competent jurisdiction, provided that the applicant complies with § 922.36, the Director notifies the applicant and authorizing agency that he or she does not object to issuance of the authorization, and the applicant complies with any terms and conditions the Director deems necessary to protect Sanctuary resources and qualities. Amendments and extensions of authorizations in existence on the effective date of designation constitute authorizations issued after the effective date of Sanctuary designation.

(f) Notwithstanding paragraphs (d) and (e) of this section, in no event may the Director issue a National Marine Sanctuary permit or ONMS authorization under subpart D of this part authorizing, or otherwise approve, the exploration for, development, or production of oil, gas, or minerals within the Sanctuary, except for the collection of jade pursuant to paragraph (a)(1) of this section; the discharge of primary-treated sewage within the Sanctuary (except by certification, pursuant to § 922.10, of valid authorizations in existence on January 1, 1993 and issued by other authorities of competent jurisdiction); or the disposal of dredged material within the Sanctuary other than at sites authorized by EPA (in consultation with COE) before January 1, 1993. Any purported authorizations issued by other authorities within the Sanctuary shall be invalid.

■ 35. Revise § 922.133 to read as follows:

§ 922.133 Permit procedures.

(a) A person may conduct an activity otherwise prohibited by § 922.132(a)(1) as it pertains to jade collection in the Sanctuary, § 922.132(a)(2) through (11) and (13) if conducted under and in accordance with the scope, purpose, terms and conditions of a permit issued under this section and subpart D of this part.

(b) Applications for permits should be addressed to the Director, Office of National Marine Sanctuaries; ATTN: Superintendent, Monterey Bay National Marine Sanctuary, 99 Pacific Street, Bldg. 455A, Monterey, California 93940.

Subpart N—Stellwagen Bank National Marine Sanctuary

■ 36. Amend § 922.140 by revising the first sentence in paragraph (a) and revising paragraph (b) to read as follows:

§ 922.140 Boundary.

(a) The Stellwagen Bank National Marine Sanctuary (Sanctuary) consists of an area of approximately 639 square nautical miles (nmi^2) (846 sq. mi.) of Federal marine waters and the submerged lands thereunder, over and around Stellwagen Bank and other submerged features off the coast of Massachusetts. * * *

(b) The Sanctuary boundary is identified by the following coordinates, indicating the most northeast, southeast, southwest, west-northwest, and north-northwest points: 42.76672 −70.21664 (NE); 42.09330 −70.03506 (SE); 42.12924 −70.47043 (SW); 42.54830 −70.59737 (WNW); and 42.65123 −70.50262 (NNW). The western border is formed by a straight line connecting the most southwest and the west-northwest points of the Sanctuary. At the most west-northwest point, the Sanctuary border follows a line contiguous with the three-mile jurisdictional boundary of Massachusetts to the most north-northwest point. From this point, the northern border is formed by a straight line connecting the most north-northwest point and the most northeast point. The eastern border is formed by a straight line connecting the most northeast and the most southeast points of the Sanctuary. The southern border follows a straight line between the most southwest point and a point located at 42.11526 −70.27800. From that point, the southern border then continues in a west-to-east direction along a line contiguous with the three-mile jurisdictional boundary of Massachusetts until reaching the most southeast point of the Sanctuary. The boundary coordinates are listed in appendix A to this subpart.

■ 37. Amend § 922.141 by revising the introductory text and the definition of ''Industrial material'' to read as follows:

§ 922.141 Definitions.

In addition to those definitions found at § 922.11, the following definitions apply to this subpart:

Industrial material means mineral, as defined in § 922.11.

* * * * *

■ 38. Amend § 922.142 by revising paragraphs (d) and (f) to read as follows:

§ 922.142 Prohibited or otherwise regulated activities:

* * * * *

(d) The prohibitions in paragraphs (a)(1) and (3) through (7) of this section do not apply to any activity specifically authorized by and conducted in accordance with the scope, purpose, terms, and conditions of a National Marine Sanctuary permit issued pursuant to subpart D of this part and § 922.143 or a special use permit issued pursuant to subpart D of this part.

* * * * *

(f) Notwithstanding paragraphs (d) and (e) of this section, in no event may the Director issue a permit under subpart D of this part and § 922.143, or under section 310 of the act, authorizing, or otherwise approving, the exploration for, development or production of industrial materials within the Sanctuary, or the disposal of dredged materials within the Sanctuary (except by a certification, pursuant to § 922.10, of valid authorizations in existence on November 4, 1992) and any leases, licenses, permits, approvals or other authorizations authorizing the exploration for, development or production of industrial materials in the Sanctuary issued by other authorities after November 4, 1992, shall be invalid.

■ 39. Revise § 922.143 to read as follows:

§ 922.143 Permit procedures.

(a) A person may conduct an activity otherwise prohibited by § 922.142(a)(1) and (3) through (7) if conducted under and in accordance with the scope, purpose, terms and conditions of a permit issued under this section and subpart D of this part.

(b) Applications for such permits should be addressed to the Director, Office of National Marine Sanctuaries; ATTN: Superintendent, Stellwagen Bank National Marine Sanctuary, 175 Edward Foster Road, Scituate, MA 02066.

■ 40. Revise appendix A to subpart N to read as follows:

Appendix A to Subpart N of Part 922—Stellwagen Bank National Marine Sanctuary Boundary Coordinates

Coordinates listed in this appendix are unprojected (geographic) and based on the North American Datum of 1983.

Pt.	Latitude	Longitude
E1	42.76672	−70.21664
E2	42.09330	−70.03506
E3	42.10239	−70.05434
E4	42.10081	−70.06707
E5	42.11752	−70.08658
E6	42.12038	−70.10607
E7	42.12675	−70.12388
E8	42.12853	−70.14005
E9	42.13342	−70.15497
E10	42.13481	−70.17292
E11	42.13210	−70.19605
E12	42.13339	−70.21707
E13	42.12970	−70.23889
E14	42.12435	−70.25585
E15	42.11526	−70.27800
E16	42.12924	−70.47043
E17	42.54830	−70.59737
E18	42.55850	−70.58697
E19	42.56347	−70.58388
E20	42.57522	−70.57254
E21	42.58075	−70.55558
E22	42.58790	−70.54179
E23	42.59504	−70.52843
E24	42.60651	−70.51587
E25	42.62107	−70.50588
E26	42.63312	−70.50132
E27	42.64245	−70.50130
E28	42.65123	−70.50262

Subpart O—Olympic Coast National Marine Sanctuary

■ 41. Amend § 922.150 by revising paragraph (a) to read as follows:

§ 922.150 Boundary.

(a) The Olympic Coast National Marine Sanctuary (Sanctuary) consists of an area of approximately 2,408 square nautical miles (nmi²) (3,188 sq. mi.) of coastal and ocean waters, and the submerged lands thereunder, off the central and northern coast of the State of Washington.

* * * * *

■ 42. Amend § 922.151 by—

■ a. Revising the introductory text; and

■ b. Removing the definitions of ''Clean'', ''Cruise ship'', and ''Harmful matter''.

The revision reads as follows:

§ 922.151 Definitions.

In addition to those definitions found at § 922.11, the following definitions apply to this subpart:

* * * * *

■ 43. Amend § 922.152 by revising paragraphs (a)(5) introductory text, (e), and (h) to read as follows:

§ 922.152 Prohibited or otherwise regulated activities.

(a) * * *

(5) Drilling into, dredging or otherwise altering the seabed of the Sanctuary; or constructing, placing or abandoning any structure, material or other matter on the submerged lands of the Sanctuary, except as an incidental result of:

* * * * *

(e) The prohibitions in paragraphs (a)(2) through (8) of this section do not apply to any activity specifically authorized by and conducted under and in accordance with the scope, purpose, terms and conditions of a National Marine Sanctuary permit or an ONMS authorization issued pursuant to subpart D of this part and § 922.153 or a special use permit issued pursuant to subpart D of this part.

* * * * *

(h) Notwithstanding paragraphs (e) and (g) of this section, in no event may the Director issue a National Marine Sanctuary permit or ONMS authorization under subpart D of this part and § 922.153 or a special use permit under section 310 of the Act authorizing, or otherwise approve: The exploration for, development or production of oil, gas or minerals within the Sanctuary; the discharge of primary-treated sewage within the Sanctuary (except by certification, pursuant to § 922.10, of valid authorizations in existence on July 22, 1994 and issued by other authorities of competent jurisdiction); the disposal of dredged material within the Sanctuary other than in connection with beach nourishment projects related to the Quillayute River Navigation Project; or bombing activities within the Sanctuary. Any purported authorizations issued by other authorities after July 22, 1994 for any of these activities within the Sanctuary shall be invalid.

■ 44. Revise § 922.153 to read as follows:

§ 922.153 Permit procedures.

(a) A person may conduct an activity prohibited by § 922.152(a)(2) through (8) if conducted in accordance with the scope, purpose, terms and conditions of a permit or ONMS authorization issued under this section and subpart D of this part.

(b) Applications for such permits or ONMS authorizations should be addressed to the Director, Office of National Marine Sanctuaries; ATTN: Superintendent, Olympic Coast National Marine Sanctuary, 115 E Railroad Ave., Suite 301, Port Angeles, WA 98362.

(c) The Director shall obtain the express written consent of the governing body of an Indian tribe prior to issuing a permit, if the proposed activity involves or affects resources of cultural or historical significance to the tribe.

(d) Removal or attempted removal of any Indian cultural resource or artifact may only occur with the express written consent of the governing body of the tribe or tribes to which such resource or artifact pertains, and certification by the Director that such activities occur in a manner that minimizes damage to the biological and archeological resources. Prior to permitting entry onto a significant cultural site designated by a tribal governing body, the Director shall require the express written consent of the governing body of the tribe or tribes to which such cultural site pertains.

(e) Where the issuance or denial of a permit is requested by the governing body of a Washington Coast treaty tribe, the Director shall consider and protect the interests of the tribe to the fullest extent practicable in keeping with the purposes of the Sanctuary and his or her fiduciary duties to the tribe.

■ 45. Revise appendix A to subpart O to read as follows:

Appendix A to Subpart O of Part 922—Olympic Coast National Marine Sanctuary Boundary Coordinates

Coordinates listed in this appendix are unprojected (geographic) and based on the North American Datum of 1983.

Point	Latitude	Longitude
1	47.12917	−124.18389
2	47.12917	−124.97000
3	47.58472	−125.00000
4	47.66806	−125.07889
5	47.83361	−125.09500
6	47.95361	−125.48694
7	48.12583	−125.63889
8	48.25000	−125.68167
9	48.30589	−125.50081
10	48.33756	−125.38136
11	48.44617	−125.15469
12	48.45256	−125.14164
13	48.46894	−125.09775
14	48.49533	−125.00303
15	48.49894	−124.98886
16	48.50367	−124.91581
17	48.50589	−124.84053
18	48.50283	−124.78831
19	48.49344	−124.72725
20	48.46889	−124.63694
21	48.38806	−124.63694

Subpart P—Florida Keys National Marine Sanctuary

■ 46. Revise § 922.161 to read as follows:

§ 922.161 Boundary.

The sanctuary consists of an area of approximately 2,872 square nautical miles (nmi²) (3,803 sq. mi.) of coastal and ocean waters, and the submerged lands thereunder, surrounding the Florida Keys in Florida. Appendix I to this subpart sets forth the precise Sanctuary boundary.

■ 47. Amend § 922.162 by

■ a. Revising paragraphs (a) introductory text; b, Removing the definition of ''Fish'' in paragraph (a); and

■ b. Revising paragraph (b).

The revisions read as follows:

§ 922.162 Definitions.

(a) The following definitions apply to the Florida Keys National Marine Sanctuary regulations. To the extent that a term appears in § 922.11 and this section, the definition in this section governs.

* * * * *

(b) Other terms appearing in the regulations in this part are defined at § 922.11, and/or in the Marine Protection, Research, and Sanctuaries Act (MPRSA), as amended, 33 U.S.C. 1401 *et seq.* and 16 U.S.C. 1431 *et seq.*

■ 48. Amend § 922.163 by revising paragraphs (b), (c), and (f) to read as follows:

§ 922.163 Prohibited activities—Sanctuary-wide.

* * * * *

(b) Notwithstanding the prohibitions in this section and in § 922.164, and any access and use restrictions imposed pursuant thereto, a person may conduct an activity specifically authorized by and conducted in accordance with the scope, purpose, terms, and conditions of a National Marine Sanctuary permit issued pursuant to § 922.166 and subpart D of this part.

(c) Notwithstanding the prohibitions in this section and in § 922.164, and any access and use restrictions imposed pursuant thereto, a person may conduct an activity specifically authorized by any valid Federal, State, or local lease, permit, license, approval, or other authorization issued after the effective date of these regulations, provided that the applicant complies with § 922.36, the Director notifies the applicant and authorizing agency that he or she does not object to issuance of the authorization, and the applicant complies with any terms and conditions the Director deems reasonably necessary to protect Sanctuary resources and qualities. Amendments of authorizations in existence on the effective date of these regulations constitute authorizations issued after the effective date of these regulations.

* * * * *

(f) In no event may the Director issue a certification, authorization, or permit under §§ 922.10, 922.163(c), and 922.166 and subpart D of this part, respectively, authorizing, or otherwise approving, the exploration for, leasing, development, or production of minerals or hydrocarbons within the Sanctuary, the disposal of dredged material within the Sanctuary other than in connection with beach renourishment or Sanctuary restoration projects, or the discharge of untreated or primary treated sewage, and any purported authorizations issued by other authorities for any of these activities within the Sanctuary shall be invalid.

* * * * *

■ 49. Amend § 922.166 by revising paragraph (a) and removing and reserving paragraphs (e), (g), and (h).

The revision reads as follows:

§ 922.166 Permits other than for access to the Tortugas Ecological Reserve—application procedures and issuance criteria.

(a) A person may conduct an activity otherwise prohibited by § 922.163 or § 922.164 if the activity is specifically allowed by and conducted in accordance with the scope, purpose, terms and conditions of a permit issued under this section and subpart D of this part.

(1) Applications for permits should be addressed to the Director, Office of National Marine Sanctuaries; ATTN: Superintendent, Florida Keys National Marine Sanctuary, 33 East Quay Road, Key West, FL 33040.

(2) For activities proposed to be conducted within any of the areas described in § 922.164 (b) through (e), the Director shall not issue a permit unless he or she further finds that such activities will further and are consistent with the purposes for which such area was established, as described in §§ 922.162 and 922.164 and in the management plan for the Sanctuary.

(3) A person may conduct an activity otherwise prohibited by § 922.163 or § 922.164, if such activity is specifically allowed by and conducted in accordance with the scope, purpose, terms and conditions of a permit issued under this section and subpart D of this part, and any additional permit issuance criteria and requirements in paragraphs (b), (c), (f), and (i) through (m) of this section.

* * * * *

Subpart Q—Hawaiian Islands Humpback Whale National Marine Sanctuary

■ 50. Amend § 922.181 by revising paragraph (a) introductory text to read as follows:

§ 922.181 Boundary.

(a) Except for excluded areas described in paragraph (b) of this section, the Hawaiian Islands Humpback Whale National Marine Sanctuary encompasses approximately 1,032 square nautical miles (nmi²) (1,366 sq. mi.), and consists of the submerged lands and waters off the coast of the Hawaiian Islands seaward from the shoreline, cutting across the mouths of rivers and streams:

* * * * *

■ 51. Amend § 922.182 by revising paragraph (b) to read as follows:

§ 922.182 Definitions.

* * * * *

(b) Other terms appearing in the regulations in this subpart are defined at 15 CFR 922.11, and/or in the Marine Protection, Research, and Sanctuaries Act, as amended, 33 U.S.C. 1401 *et seq.,* and 16 U.S.C. 1431 *et seq.*

■ 52. In appendix A to subpart Q, under the heading ''Sanctuary Boundary'' amend section B by revising the table and amend section C by revising the table to read as follows:

Appendix A to Subpart Q of Part 922—Hawaiian Islands Humpback Whale, National Marine Sanctuary Boundary Description and Coordinates of the Lateral Boundary Closures and Excluded Areas

* * * * *

B. * * *

* * * * *

Bound No. (fig. 2)	Geographic name	Number of points	Latitude	Longitude
1a	Kailiu Pt., Kauai	2	22.22353	−159.58117
1b	Kailiu Pt., Kauai		22.27597	−159.59983
2a	Mokolea Pt., Kauai	2	22.22497	−159.38217
2b	Mokolea Pt., Kauai		22.24872	−159.37203

Bound No. (fig. 2)	Geographic name	Number of points	Latitude	Longitude
3a	Puaena Pt., N Oahu	2	21.64017	−158.14056
3b	Puaena Pt., N Oahu		21.60233	−158.10681
4a	Mahie Pt., N Oahu	2	21.56036	−157.86442
4b	Mahie Pt., N Oahu		21.59228	−157.83486
5a	Kapahulu Groin, S Oahu	3	21.25158	−157.84097
5b	Kapahulu Groin, S Oahu		21.26836	−157.82381
5c	Kapahulu Groin, S Oahu		21.26839	−157.82328
6a	Makapuu Pt., S Oahu	2	21.31100	−157.64908
6b	Makapuu Pt., S Oahu		21.32908	−157.59614
7a	Ilio Pt., Molokai	2	21.22381	−157.31272
7b	Ilio Pt., Molokai		21.22417	−157.25400
8a	Pailolo Channel, C. Halawa to Lipoa Pt	2	21.02494	−156.63944
8b	Pailolo Channel, C. Halaw to Lipoa Pt		21.15819	−156.71033
9a	Hanamanoia Lighthouse, Maui	2	20.57272	−156.44753
9b	Hanamanoia Lighthouse, Maui		20.58289	−156.41256
10a	3 Nmi. closure around Kahoolawe	51	20.59947	−156.49222
10b	3 Nmi. closure around Kahoolawe		20.59997	−156.49250
10c	3 Nmi. closure around Kahoolawe		20.60108	−156.49319
10d	3 Nmi. closure around Kahoolawe		20.60183	−156.49358
10e	3 Nmi. closure around Kahoolawe		20.60453	−156.49531
10f	3 Nmi. closure around Kahoolawe		20.60714	−156.49719
10g	3 Nmi. closure around Kahoolawe		20.60961	−156.49925
10h	3 Nmi. closure around Kahoolawe		20.61108	−156.50061
10i	3 Nmi. closure around Kahoolawe		20.61217	−156.50153
10j	3 Nmi. closure around Kahoolawe		20.61411	−156.50336
10k	3 Nmi. closure around Kahoolawe		20.61639	−156.50458
10l	3 Nmi. closure around Kahoolawe		20.63297	−156.50631
10m	3 Nmi. closure around Kahoolawe		20.62169	−156.50819
10n	3 Nmi. closure around Kahoolawe		20.62417	−156.51022
10o	3 Nmi. closure around Kahoolawe		20.62653	−156.51244
10p	3 Nmi. closure around Kahoolawe		20.62872	−156.51483
10q	3 Nmi. closure around Kahoolawe		20.63081	−156.51733
10r	3 Nmi. closure around Kahoolawe		20.63233	−156.51944
10s	3 Nmi. closure around Kahoolawe		20.63306	−156.52033
10t	3 Nmi. closure around Kahoolawe		20.63500	−156.52297
10u	3 Nmi. closure around Kahoolawe		20.63572	−156.52411
10v	3 Nmi. closure around Kahoolawe		20.63633	−156.52497
10w	3 Nmi. closure around Kahoolawe		20.63811	−156.52775
10x	3 Nmi. closure around Kahoolawe		20.63858	−156.52861
10y	3 Nmi. closure around Kahoolawe		20.63983	−156.53011
10z	3 Nmi. closure around Kahoolawe		20.64175	−156.53278
10aa	3 Nmi. closure around Kahoolawe		20.64350	−156.53553
10bb	3 Nmi. closure around Kahoolawe		20.64511	−156.53842
10cc	3 Nmi. closure around Kahoolawe		20.64539	−156.53903
10dd	3 Nmi. closure around Kahoolawe		20.64622	−156.54053
10ee	3 Nmi. closure around Kahoolawe		20.64764	−156.54353
10ff	3 Nmi. closure around Kahoolawe		20.64889	−156.54658
10gg	3 Nmi. closure around Kahoolawe		20.64994	−156.54975
10hh	3 Nmi. closure around Kahoolawe		20.65083	−156.55297
10ii	3 Nmi. closure around Kahoolawe		20.65111	−156.55436
10jj	3 Nmi. closure around Kahoolawe		20.65122	−156.55472
10kk	3 Nmi. closure around Kahoolawe		20.65147	−156.55586
10ll	3 Nmi. closure around Kahoolawe		20.65189	−156.55797
10mm	3 Nmi. closure around Kahoolawe		20.65239	−156.56131
10nn	3 Nmi. closure around Kahoolawe		20.65247	−156.56233
10oo	3 Nmi. closure around Kahoolawe		20.65269	−156.56378
10pp	3 Nmi. closure around Kahoolawe		20.65281	−156.56494
10qq	3 Nmi. closure around Kahoolawe		20.65306	−156.56675
10rr	3 Nmi. closure around Kahoolawe		20.65336	−156.57011
10ss	3 Nmi. closure around Kahoolawe		20.65347	−156.57344
10tt	3 Nmi. closure around Kahoolawe		20.65344	−156.57372
10uu	3 Nmi. closure around Kahoolawe		20.65350	−156.57514
10vv	3 Nmi. closure around Kahoolawe		20.65339	−156.57850
10ww	3 Nmi. closure around Kahoolawe		20.65328	−156.57992
10xx	3 Nmi. closure around Kahoolawe		20.65325	−156.58025
10yy	3 Nmi. closure around Kahoolawe		20.65314	−156.58217
11a	Technical Closure	2	20.69422	−156.61875
11b	Technical Closure		20.69583	−156.63433
12a	Upolu Pt., Hawaii (Big Island)	2	20.26814	−155.85014
12b	Upolu Pt., Hawaii (Big Island)		20.29997	−155.85478
13a	Keahole Pt., Hawaii (Big Island)	2	19.72767	−156.06186
13b	Keahole Pt., Hawaii (Big Island)		19.72819	−156.07069

C. * * *

* * * * *

Bound No. (fig.2)	Geographic name	Number of points	Latitude	Longitude
14a	Kawaihae Harbor, Big Island exclusion	2	20.03731	−155.83403
14b	Kawaihae Harbor, Big Island exclusion		20.04036	−155.83269
15a	Haleolono Harbor, Molokai exclusion	2	21.08431	−157.24961
15b	Haleolono Harbor, Molokai exclusion		21.08467	−157.24867
16a	Kaunakakai Harbor, Molokai exclusion	4	21.08719	−157.02658
16b	Kaunakakai Harbor, Molokai exclusion		21.08033	−157.03286
16c	Kaunakakai Harbor, Molokai exclusion		21.07736	−157.02811
16d	Kaunakakai Harbor, Molokai exclusion		21.08539	−157.02083
17a	Kaumalapau Harbor, Lanai exclusion	2	20.78589	−156.99228
17b	Kaumalapau Harbor, Lanai exclusion		20.78364	−156.99203
18a	Manele Harbor, Lanai exclusion	2	20.74256	−156.88692
18b	Manele Harbor, Lanai exclusion		20.74311	−156.88725
19a	Lahaina Harbor, Maui exclusion	2	20.87175	−156.67917
19b	Lahaina Harbor, Maui exclusion		20.87189	−156.67889
20a	Maalaea Harbor, Maui exclusion	2	20.79225	−156.50972
20b	Maalaea Harbor, Maui exclusion		20.79022	−156.51100
21a	Western closure Kuapa Pond (Hawaii Kai), Oahu	2	21.28528	−157.71881
21b	Western closure Kuapa Pond (Hawaii Kai), Oahu		21.28514	−157.71861
22a	Eastern closure Kuapa Pond (Hawaii Kai), Oahu	2	21.28147	−157.71186
22b	Eastern closure Kuapa Pond (Hawaii Kai), Oahu		21.28108	−157.71119

Subpart R—Thunder Bay Bank National Marine Sanctuary and Underwater Preserve

■ 53. Amend § 922.190 by revising paragraph (a) to read as follows:

§ 922.190 Boundary.

(a) Except as provided in paragraph (b) of this section, the Thunder Bay National Marine Sanctuary and Underwater Preserve (Sanctuary) consists of an area of approximately 3,247 square nautical miles (nmi^2) (4,300 sq. mi.) of waters of Lake Huron and the submerged lands thereunder, over, around, and under the underwater cultural resources in Thunder Bay. The eastern boundary of the sanctuary begins at the intersection of the southern Alcona County boundary and the U.S./Canada international boundary (Point 1). The eastern boundary of the sanctuary approximates the international boundary passing through Points 2–5. The boundary continues west through Point 6 and then back to the northeast until it intersects with the 45.83333° N line of latitude at Point 7. The northern boundary follows the line of latitude 45.83333° N westward until it intersects the −84.33333° W line of longitude at Point 8. The western boundary extends south along the −84.33333° W line of longitude towards Point 9 until it intersects the ordinary high water mark at Cordwood Point. From there, the western boundary follows the ordinary high water mark as defined by Part 325, Great Lakes Submerged Lands, of P.A. 451 (1994), as amended, cutting across the mouths of rivers and streams until it intersects the line formed between Point 10 and Point 11 south of Rogers City, MI. From there the boundary moves offshore through Points 11–15 in order until it intersects the ordinary high water mark along the line formed between Point 15 and Point 16. At this intersection the boundary continues to follow the ordinary high water mark south until it intersects with the line formed between Point 17 and Point 18 near Stoneport Harbor Light in Presque Isle, MI.

* * * * *

§ 922.194 [Removed and Reserved].

■ 54. Remove and reserve § 922.194.

■ 55. Revise § 922.195 to read as follows:

§ 922.195 Permit procedures.

(a) A person may conduct an activity otherwise prohibited by § 922.193(a)(1) through (3), if the activity is specifically authorized by and conducted in accordance with the scope, purpose, terms and conditions of a State Permit provided that:

(1) The State Archaeologist certifies to NOAA that the activity authorized under the State Permit will be conducted consistent with the Programmatic Agreement, in which case such State Permit shall be deemed to have met the requirements of subpart D of this part; or

(2) In the case where the State Archaeologist does not certify that the activity to be authorized under a State Permit will be conducted consistent with the Programmatic Agreement, the person complies with the requirements of subpart D of this part.

(b) In instances where the conduct of an activity is prohibited by § 922.193(a)(1) through (3) is not addressed under a State or other Federal lease, license, permit or other authorization, a person may conduct such activity if it is specifically authorized by and conducted in accordance with the scope, purpose, terms, and conditions of a permit issued pursuant to subpart D of this part and the Programmatic Agreement.

(c) A permit for recovery of an underwater cultural resource may be issued if:

(1) The proposed activity satisfies the requirements for permits described under paragraphs (a) and (b) of this section and section 922.33;

(2) The recovery of the underwater cultural resource is in the public interest;

(3) Recovery of the underwater cultural resource is part of research to preserve historic information for public use; and

(4) Recovery of the underwater cultural resource is necessary or appropriate to protect the resource, preserve historical information, or further the policies of the Sanctuary.

(d) A person shall file an application for a permit with the Michigan Department of Environmental Quality, Land and Water Management Division, P.O. Box 30458, Lansing, MI 48909–7958. The application shall contain all of the following information:

(1) The name and address of the applicant;

(2) Research plan that describes in detail the specific research objectives and previous work done at the site. An archaeological survey must be conducted on a site before an archaeological permit allowing excavation can be issued;

(3) Description of significant previous work in the area of interest, how the proposed effort would enhance or contribute to improving the state of knowledge, why the proposed effort should be performed in the Sanctuary, and its potential benefits to the Sanctuary;

(4) An operational plan that describes the tasks required to accomplish the project's objectives and the professional qualifications of those conducting and supervising those tasks (*see* paragraph (d)(9) of this section). The plan must provide adequate description of methods to be used for excavation, recovery and the storage of artifacts and related materials on site, and describe the rationale for selecting the proposed methods over any alternative methods;

(5) Archaeological recording, including site maps, feature maps, scaled photographs, and field notes;

(6) An excavation plan describing the excavation, recovery and handling of artifacts;

(7)(i) A conservation plan documenting:

(A) The conservation facility's equipment;

(B) Ventilation temperature and humidity control; and

(C) storage space.

(ii) Documentation of intended conservation methods and processes must also be included;

(8) A curation and display plan for the curation of the conserved artifacts to ensure the maintenance and safety of the artifacts in keeping with the Sanctuary's federal stewardship responsibilities under the Federal Archaeology Program (36 CFR part 79, Curation of Federally-Owned and Administered Archaeological Collections); and

(9) Documentation of the professional standards of an archaeologist supervising the archaeological recovery of historical artifacts. The minimum professional qualifications in archaeology are a graduate degree in archaeology, anthropology, or closely related field plus:

(i) At least one year of full-time professional experience or equivalent specialized training in archeological research, administration or management;

(ii) At least four months of supervised field and analytic experience in general North American archaeology;

(iii) Demonstrated ability to carry research to completion; and

(iv) At least one year of full-time professional experience at a supervisory level in the study of archeological resources in the underwater environment.

■ 56. Revise appendix A to subpart R to read as follows:

Appendix A to Subpart R of Part 922—Thunder Bay National Marine Sanctuary and Underwater Preserve Boundary Coordinates

Coordinates listed in this appendix are unprojected (geographic) and based on the North American Datum of 1983.

Point	Latitude	Longitude
1	45.20708	−83.38850
2	45.20708	−83.00000
3	44.85847	−83.00000
4	44.85847	−83.32147

Subpart S—Mallows Bay-Potomac River National Marine Sanctuary

■ 57. Revise § 922.205 to read as follows:

§ 922.205 Permit procedures.

(a) A person may conduct an activity otherwise prohibited by § 922.203(a)(1) and (2) if conducted under and in accordance with the scope, purpose, terms and conditions of a permit issued under this section and subpart D of this part.

(b) Applications for such permits should be addressed to the Director, Office of National Marine Sanctuaries; ATTN: Superintendent, Mallows Bay–Potomac River National Marine Sanctuary, 1305 East-West Highway, Silver Spring, MD 20910.

■ 58. Amend § 922.206 by revising paragraphs (a) and (j) to read as follows:

§ 922.206 Certification of preexisting leases, licenses, permits, approvals, other authorizations, or rights to conduct a prohibited activity.

(a) A person may conduct an activity prohibited by § 922.203(a)(1) through (3) if such activity is specifically authorized by a valid Federal, state, or local lease, permit, license, approval, or other authorization, or tribal right of subsistence use or access in existence prior to the effective date of sanctuary designation and within the sanctuary designated area and complies with § 922.10 and provided that the holder of the lease, permit, license, approval, or other authorization complies with the requirements of paragraph (e) of this section.

* * * * *

(j) The holder may appeal any action conditioning, amending, suspending, or revoking any certification in accordance with the procedures set forth in § 922.37.

* * * * *

Subpart T—Wisconsin Shipwreck Coast National Marine Sanctuary

■ 59. Revise § 922.215 to read as follows:

§ 922.215 Permit procedures.

(a) A person may conduct an activity otherwise prohibited by § 922.213(a)(1) and (2) if conducted under and in accordance with the scope, purpose, terms and conditions of a permit issued under this section and subpart D of this part.

(b) Applications for such permits should be addressed to the Director, Office of National Marine Sanctuaries; ATTN: Superintendent, Wisconsin Shipwreck Coast National Marine Sanctuary, 1305 East-West Highway, Silver Spring, MD 20910.

■ 60. Amend § 922.216 by revising paragraphs (a) and (j) to read as follows:

§ 922.216 Certification of preexisting leases, licenses, permits, approvals, other authorizations, or rights to conduct a prohibited activity.

(a) A person may conduct an activity prohibited by § 922.213(a)(1) through (3) if such activity is specifically authorized by a valid Federal, state, or local lease, permit, license, approval, or other authorization, or tribal right of subsistence use or access in existence prior to the effective date of sanctuary designation and within the sanctuary designated area and complies with § 922.10 and provided that the holder of the lease, permit, license, approval, or other authorization complies with the requirements of paragraph (e) of this section.

* * * * *

(j) The holder may appeal any action conditioning, amending, suspending, or revoking any certification in accordance with the procedures set forth in § 922.37.

* * * * *

[FR Doc. 2022–28225 Filed 1–5–23; 8:45 am]

BILLING CODE 3510–NK–P

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

20 CFR Part 10

RIN 1240–AA18

Claims for Compensation Under the Federal Employees' Compensation Act

AGENCY: Office of Workers' Compensation Programs, Department of Labor.

ACTION: Final rule.

SUMMARY: The Office of Workers' Compensation Programs (OWCP) is publishing this final rule to adjust the amount of time a claimant has to provide additional information when the evidence that has been submitted by the claimant is insufficient to meet their burden of proof and OWCP needs additional information. This change implements a requirement of the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023, which requires OWCP to increase the minimum amount of time allowed from 30 days to 60 days.

DATES: This final rule is effective March 7, 2023.

FOR FURTHER INFORMATION CONTACT: Antonio Rios, Director, Division of Federal Employees' and Longshore and Harbor Workers' Compensation, Office of Workers' Compensation Programs, by mail at U.S. Department of Labor, Room C–3154, U.S. Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210; by email at *DFECDirector@dol.gov;* or by telephone at 202–693–0040. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Federal Employees' Compensation Act (FECA) provides compensation for wage loss, medical care, and vocational rehabilitation to Federal employees and certain other individuals who are injured in the performance of their duties, or who develop illnesses as a result of factors of their Federal employment.

Under Public Law 117–263, Congress directed OWCP to update 20 CFR 10.121 within 16 days of the law's enactment. Section 10.121 addresses situations when the evidence submitted by the claimant is insufficient to meet their burden of proof and OWCP needs additional information. Presently, it requires OWCP to give the claimant at least 30 days to submit the evidence required. At Congress' express direction, OWCP is changing this 30-day period to 60 days.

The Agency's implementation of this action without opportunity for public comment is based on the good cause exception in 5 U.S.C. 553(b)(B), in that seeking public comment is impracticable, unnecessary, and contrary to the public interest. Seeking public comment is unnecessary because the agency has no discretion to change the timeline for a claimant to submit additional evidence. In addition, given the 16-day deadline for amending the regulation that was prescribed by Congress, seeking prior public comment on this is impracticable and contrary to the public interest in the orderly promulgation and implementation of regulations.

Executive Order 12866

This regulatory action does not constitute a ''significant'' rule within the meaning of Executive Order 12866 in that it only changes the timeline to submit additional evidence by 30 days.

Regulatory Flexibility Act of 1980

An analysis under the Regulatory Flexibility Act of 1980, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (RFA), 5 U.S.C. 601–612, is not needed for this rule. The RFA imposes certain requirements on Federal agency rules that are subject to the notice and comment requirements of the APA, 5 U.S.C. 553(b). The Department is invoking the good cause exception to notice-and-comment procedures for this final rule. Accordingly, the Department is not required to either certify that the final rule would not have a significant economic impact on a substantial number of small entities or conduct a regulatory flexibility analysis.

Paperwork Reduction Act (PRA)

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the Department consider the impact of paperwork and other information collection burdens imposed on the public. The Department has determined that this final rule does not require any collection of information or alter any existing information collections.

Unfunded Mandates Reform Act of 1995 and Executive Order 13132

The Department has reviewed this proposed rule in accordance with the requirements of Exec. Order No. 13132, 64 FR 43,225 (Aug. 10, 1999), and the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1501 *et seq.,* and has found no potential or 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. As there is no Federal mandate contained herein that could result in increased expenditures by State, local, or tribal governments or by the private sector, the Department has not prepared a budgetary impact statement.

Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

The Department has reviewed this proposed rule in accordance with Exec. Order 13,175, 65 FR 67249 (Nov. 9, 2000), and has determined that it does not have ''tribal implications.'' The proposed rule 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.''

Executive Order 12630: Governmental Actions and Interference With Constitutionally Protected Property Rights

The Department has reviewed this proposed rule in accordance with Exec. Order 12630, 53 FR 8859 (Mar. 15, 1988), and has determined that it does not contain any ''policies that have takings implications'' in regard to the ''licensing, permitting, or other condition requirements or limitations on private property use, or that require dedications or exactions from owners of private property.''

Executive Order 13211: Energy Supply, Distribution, or Use

The Department has reviewed this proposed regulation and has determined that the provisions of Exec. Order 13211, 66 FR 28355 (May 18, 2001), are not applicable as there are no direct or implied effects on energy supply, distribution, or use.

The Privacy Act of 1974, 5 U.S.C. 552a, as Amended

Claims filed under this regulation are subject to the current Privacy Act System of Records, DOL/GOVT–1, Office of Workers' Compensation Programs, Federal Employees' Compensation Act File, 67 FR 16826 (April 8, 2002).

List of Subjects in 20 CFR Part 10

Administrative practice and procedure, Federal Employees' Compensation Act, Federal employees, and other groups of employees and individuals who are injured or killed while performing their jobs.

For the reasons discussed in the preamble, the Office of Workers'

Compensation Programs amends 20 CFR part 10 as follows:

PART 10—CLAIMS FOR COMPENSATION UNDER THE FEDERAL EMPLOYEES' COMPENSATION ACT, AS AMENDED

■ 1. The authority citation for part 10 is amended to read as follows: 5 U.S.C. 301, 8102a, 8103, 8145 and 8149; 31 U.S.C. 3716 and 3717; Reorganization Plan No. 6 of 1950, 15 FR 3174, 64 Stat. 1263; Secretary of Labor's Order No. 10–2009, 74 FR 218; Pub. L. 117–263.

■ 2. Revise § 10.121 to read as follows:

§ 10.121 What happens if OWCP needs more evidence from the claimant?

If the claimant submits factual evidence, medical evidence, or both, but OWCP determines that this evidence is not sufficient to meet the burden of proof, OWCP will inform the claimant of the additional evidence needed. The claimant will be allowed at least 60 days to submit the evidence required. OWCP is not required to notify the claimant a second time if the evidence submitted in response to OWCP's first request for additional evidence is not sufficient to meet the burden of proof.

Signed at Washington, DC, on December 30, 2022.

Christopher Godfrey,

Director, Office of Workers' Compensation Programs.

[FR Doc. 2022–28619 Filed 1–5–23; 8:45 am]

BILLING CODE 4510–CH–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 870

[Docket No. FDA–2022–N–3189]

Medical Devices; Cardiovascular Devices; Classification of the Hardware and Software for Optical Camera-Based Measurement of Pulse Rate, Heart Rate, Breathing Rate, and/or Respiratory Rate

AGENCY: Food and Drug Administration, Department of Health and Human Services (HHS).

ACTION: Final amendment; final order.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) is classifying the hardware and software for optical camera-based measurement of pulse rate, heart rate, breathing rate, and/or respiratory rate into class II (special controls). The special controls that apply to the device type are identified in this order and will be part of the codified language for the hardware and software for optical camera-based measurement of pulse rate, heart rate, breathing rate, and/or respiratory rate's classification. We are taking this action because we have determined that classifying the device into class II (special controls) will provide a reasonable assurance of safety and effectiveness of the device. We believe this action will also enhance patients' access to beneficial innovative devices.

DATES: This order is effective January 6, 2023. The classification was applicable on April 1, 2021.

FOR FURTHER INFORMATION CONTACT: Jennifer Kozen, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 2272, Silver Spring, MD 20993–0002, 307–796–5813, *Jennifer.Shih@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Upon request, FDA has classified the hardware and software for optical camera-based measurement of pulse rate, heart rate, breathing rate, and/or respiratory rate as class II (special controls), which we have determined will provide a reasonable assurance of safety and effectiveness. In addition, we believe this action will enhance patients' access to beneficial innovation, in part by placing the device into a lower device class than the automatic class III assignment.

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

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

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

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

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

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

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

II. De Novo Classification

On June 12, 2020, FDA received ContinUse Biometrics Ltd.'s request for De Novo classification of the Gili Pro BioSensor. FDA reviewed the request in order to classify the device under the criteria for classification set forth in section 513(a)(1) of the FD&C Act.

We classify devices into class II if general controls by themselves are insufficient to provide reasonable assurance of safety and effectiveness, but there is sufficient information to establish special controls that, in combination with the general controls, provide reasonable assurance of the safety and effectiveness of the device for its intended use (see 21 U.S.C. 360c(a)(1)(B)). After review of the information submitted in the request, we determined that the device can be classified into class II with the establishment of special controls. FDA has determined that these special controls, in addition to the general controls, will provide reasonable assurance of the safety and effectiveness of the device.

Therefore, on April 1, 2021, FDA issued an order to the requester classifying the device into class II. In this final order, FDA is codifying the classification of the device by adding 21 CFR 870.2786.[1] We have named the generic type of device hardware and software for optical camera-based measurement of pulse rate, heart rate, breathing rate, and/or respiratory rate, and it is identified as a device that uses an optical sensor system and software algorithms to obtain and analyze video signal and estimate pulse rate, heart rate, breathing rate, and/or respiratory rates. This device is not intended to independently direct therapy.

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

TABLE 1—HARDWARE AND SOFTWARE FOR OPTICAL CAMERA-BASED MEASUREMENT OF PULSE RATE, HEART RATE, BREATHING RATE, AND/OR RESPIRATORY RATE RISKS AND MITIGATION MEASURES

Identified risks	Mitigation measures
Delayed or incorrect treatment due to erroneous output as a result of device malfunction or algorithm error.	Software verification, validation, and hazard analysis; Cybersecurity assessment; Clinical data; and Labeling.
Delayed or incorrect treatment due to user misinterpretation	Human factors assessment, and Labeling.
Eye damage, burns, and related safety concerns due to illuminating optics.	Non-clinical performance testing, and Labeling.

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

III. Analysis of Environmental Impact

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

IV. Paperwork Reduction Act of 1995

This final order establishes special controls that refer to previously approved collections of information found in other FDA regulations and guidance. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521). The collections of information in 21 CFR part 860, subpart D, regarding De Novo classification have been approved under OMB control number 0910–0844; the collections of information in 21 CFR part 814, subparts A through E, regarding premarket approval, have been approved under OMB control number 0910–0231; the collections of information in part 807, subpart E, regarding premarket notification submissions, have been approved under OMB control number 0910–0120; the collections of information in 21 CFR part 820, regarding quality system regulation, have been approved under OMB control number 0910–0073; and the collections of information in 21 CFR part 801, regarding labeling, have been approved under OMB control number 0910–0485.

List of Subjects in 21 CFR Part 870

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 870 is amended as follows:

PART 870—CARDIOVASCULAR DEVICES

■ 1. The authority citation for part 870 continues to read as follows:

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

■ 2. Add § 870.2786 to subpart C to read as follows:

§ 870.2786 Hardware and software for optical camera-based measurement of pulse rate, heart rate, breathing rate, and/or respiratory rate.

(a) *Identification.* The device uses an optical sensor system and software algorithms to obtain and analyze video signal and estimate pulse rate, heart rate, breathing rate, and/or respiratory rates. This device is not intended to independently direct therapy.

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

(1) A software description and the results of verification and validation testing based on a comprehensive hazard analysis and risk assessment must include:

(i) A full characterization of the software technical parameters, including algorithms;

(ii) A description of all mitigations for user error or failure of any subsystem components (including signal detection, signal analysis, data display, and storage) on output accuracy; and

(iii) Software documentation must include a cybersecurity vulnerability and management process to assure software functionality.

(2) Performance testing must demonstrate the safety of any illuminating optics.

(3) Clinical data must be provided. This assessment must fulfill the following:

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

(i) The clinical data must be representative of the intended use population for the device. Any selection criteria or sample limitations must be fully described and justified.

(ii) The assessment must demonstrate output consistency using the expected range of data sources and data quality encountered in the intended use population and environment.

(iii) The assessment must compare device output with a clinically accurate patient-contacting relevant comparator device in an accurate and reproducible manner.

(4) A human factors and usability engineering assessment must be provided that evaluates the risk of improper measurement.

(5) Labeling must include:

(i) A description of what the device measures and outputs to the user;

(ii) Warnings identifying sensor acquisition factors or subject conditions or characteristics (garment types/textures, motion, etc.) that may impact measurement results;

(iii) Guidance for interpretation of the measurements, including a statement that the output is adjunctive to other physical vital sign parameters and patient information;

(iv) The expected performance of the device for all intended use populations and environments; and

(v) Robust instructions to ensure correct system setup.

Dated: January 3, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–00010 Filed 1–5–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 874

[Docket No. FDA–2022–N–3171]

Medical Devices; Ear, Nose, and Throat Devices; Classification of the Powered Insertion System for a Cochlear Implant Electrode Array

AGENCY: Food and Drug Administration, Department of Health and Human Services (HHS).

ACTION: Final amendment; final order.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) is classifying the powered insertion system for a cochlear implant electrode array into class II (special controls). The special controls that apply to the device type are identified in this order and will be part of the codified language for the powered insertion system for a cochlear implant electrode array's classification. We are taking this action because we have determined that classifying the device into class II (special controls) will provide a reasonable assurance of safety and effectiveness of the device. We believe this action will also enhance patients' access to beneficial innovative devices.

DATES: This order is effective January 6, 2023. The classification was applicable on October 1, 2021.

FOR FURTHER INFORMATION CONTACT: Vasant Dasika, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 1206, Silver Spring, MD, 20993–0002, 301–796–5365, *Vasant.Dasika@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Upon request, FDA has classified the powered insertion system for a cochlear implant electrode array as class II (special controls), which we have determined will provide a reasonable assurance of safety and effectiveness. In addition, we believe this action will enhance patients' access to beneficial innovation, in part by placing the device into a lower device class than the automatic class III assignment.

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

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

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

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

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

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

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

II. De Novo Classification

On December 18, 2019, FDA received iotaMotion, Inc.'s request for De Novo classification of the iotaSOFT Insertion System—Drive Unit, Controller and Accessories. FDA reviewed the request in order to classify the device under the criteria for classification set forth in section 513(a)(1) of the FD&C Act.

We classify devices into class II if general controls by themselves are insufficient to provide reasonable

assurance of safety and effectiveness, but there is sufficient information to establish special controls that, in combination with the general controls, provide reasonable assurance of the safety and effectiveness of the device for its intended use (see 21 U.S.C. 360c(a)(1)(B)). After review of the information submitted in the request, we determined that the device can be classified into class II with the establishment of special controls. FDA has determined that these special controls, in addition to the general controls, will provide reasonable assurance of the safety and effectiveness of the device.

Therefore, on October 1, 2021, FDA issued an order to the requester classifying the device into class II. In this final order, FDA is codifying the classification of the device by adding 21 CFR 874.4450.[1] We have named the generic type of device powered insertion system for a cochlear implant electrode array, and it is identified as a prescription device used to assist in placing an electrode array into the cochlea.

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

TABLE 1—POWERED INSERTION SYSTEM FOR A COCHLEAR IMPLANT ELECTRODE RISKS AND MITIGATION MEASURES

Identified risks	Mitigation measures
Risks to health relating to device interface with patient anatomy, including: • Damage to skull tissue. • Damage to dura mater. • Bone damage. • Cerebrospinal fluid leak. • Damage to cochlea; hearing loss, tinnitus, vertigo.	Clinical performance testing, Usability testing, Non-clinical performance testing, and Labeling.
Cochlear implant insertion failure leading to: • Trauma to cochlear structures resulting in residual hearing loss or nerve degeneration. • Suboptimal array placement (including array rotation) leading to poor hearing performance. • Failure to disengage from cochlear implant at end of procedure, leading to manual correction and insertion.	Clinical performance testing, Non-clinical performance testing, Usability testing, Cochlear implant compatibility validation, Software verification, validation, and hazard analysis, and Labeling.
Damage to cochlear implant during insertion leading to poor cochlear implant performance and/or compromised implant reliability.	Non-clinical performance testing, Usability testing, Cochlear implant compatibility validation, Shelf life testing, Software verification, validation, and hazard analysis, and Labeling.
Adverse tissue reaction, including irritation/inflammation of surgical site	Biocompatibility evaluation.
Electromagnetic interference, thermal injury, or electric shock	Electrical safety testing, Electromagnetic compatibility testing, and Labeling.
Infection	Sterilization validation, Shelf life testing, and Labeling.
Excessive operation time leading to increased exposure to anesthesia	Clinical performance testing, Usability testing, and Labeling.

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

At the time of classification, powered insertion systems for a cochlear implant electrode array are for prescription use only. Prescription devices are exempt from the requirement for adequate directions for use for the layperson under section 502(f)(1) of the FD&C Act (21 U.S.C. 352(f)(1)) and 21 CFR 801.5, as long as the conditions of 21 CFR 801.109 are met.

III. Analysis of Environmental Impact

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

IV. Paperwork Reduction Act of 1995

This final order establishes special controls that refer to previously approved collections of information found in other FDA regulations and guidance. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521). The collections of information in 21 CFR part 860, subpart D, regarding De Novo classification have been approved under OMB control number 0910–0844; the collections of information in 21 CFR part 814, subparts A through E, regarding premarket approval, have been approved under OMB control number 0910–0231; the collections of information in part 807, subpart E, regarding premarket notification submissions, have been approved under OMB control number 0910–0120; the collections of information in 21 CFR part 820, regarding quality system regulation, have been approved under OMB control number 0910–0073; and the collections of information in 21 CFR part 801, regarding labeling, have been approved under OMB control number 0910–0485.

List of Subjects in 21 CFR Part 874

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 874 is amended as follows:

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

PART 874—EAR, NOSE, AND THROAT DEVICES

■ 1. The authority citation for part 874 continues to read as follows:

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

■ 2. Add § 874.4450 to subpart E to read as follows:

§ 874.4450 Powered insertion system for a cochlear implant electrode array.

(a) *Identification.* A powered insertion system for a cochlear implant electrode array is a prescription device used to assist in placing an electrode array into the cochlea.

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

(1) Clinical performance testing must demonstrate that the device performs as intended under anticipated conditions of use, including evaluation of all adverse events.

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

(i) Verification of cochlear implant attachment force, release force, and insertion speed;

(ii) Testing to demonstrate the device does not damage or degrade the cochlear implant (including the lead and array portions of the cochlear implant); and

(iii) Comparison testing with manual insertion to evaluate:

(A) Differences in cochlear implant array insertion force associated with use of the device; and

(B) Intracochlear placement of the cochlear implant array (intended scala placement and array insertion depth, together with minimal array tip foldover and cochlear scala translocation).

(3) Usability testing in a simulated hospital environment with an anatomically relevant model (*e.g.,* cadaver testing) that evaluates the following:

(i) Successful use to aid in placement of the electrode array into the cochlea; and

(ii) Harms caused by use errors observed.

(4) Changes in cochlear implant compatibility are determined to significantly affect the safety or effectiveness of the device and must be validated through performance testing or a rationale for omission of any testing.

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

(6) Performance testing must demonstrate the electromagnetic compatibility, electrical safety, and thermal safety of the device.

(7) The patient-contacting components of the device must be demonstrated to be sterile and non-pyrogenic.

(8) Performance testing must support the shelf life of device components provided sterile by demonstrating continued sterility, package integrity, and device functionality over the labeled shelf life.

(9) Software verification, validation, and hazard analysis must be performed for any software components of the device.

(10) Labeling must include:

(i) The recommended training for the safe use of the device;

(ii) Summary of the relevant clinical and non-clinical testing pertinent to use of the device with compatible electrode arrays; and

(iii) A shelf life.

Dated: January 3, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–00008 Filed 1–5–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 888

[Docket No. FDA–2022–N–3190]

Medical Devices; Orthopedic Devices; Classification of the Resorbable Shoulder Spacer

AGENCY: Food and Drug Administration, Department of Health and Human Services (HHS).

ACTION: Final amendment; final order.

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

DATES: This order is effective January 6, 2023. The classification was applicable on July 12, 2021.

FOR FURTHER INFORMATION CONTACT: Farzana Sharmin, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 4564, Silver Spring, MD 20993–0002, 301–796–4067, *Farzana.Sharmin@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

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

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

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

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

Under the first procedure, the person submits a 510(k) for a device that has not previously been classified. After receiving an order from FDA classifying

the device into class III under section 513(f)(1) of the FD&C Act, the person then requests a classification under section 513(f)(2).

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

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

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

II. De Novo Classification

On June 12, 2020, FDA received Ortho-Space, Ltd.'s request for De Novo classification of the InSpace Subacromial Tissue Spacer System. FDA reviewed the request in order to classify the device under the criteria for classification set forth in section 513(a)(1) of the FD&C Act.

We classify devices into class II if general controls by themselves are insufficient to provide reasonable assurance of safety and effectiveness, but there is sufficient information to establish special controls that, in combination with the general controls, provide reasonable assurance of the safety and effectiveness of the device for its intended use (see 21 U.S.C. 360c(a)(1)(B)). After review of the information submitted in the request, we determined that the device can be classified into class II with the establishment of special controls. FDA has determined that these special controls, in addition to the general controls, will provide reasonable assurance of the safety and effectiveness of the device.

Therefore, on July 12, 2021, FDA issued an order to the requester classifying the device into class II. In this final order, FDA is codifying the classification of the device by adding 21 CFR 888.3630.[1] We have named the generic type of device resorbable shoulder spacer, and it is identified as a device intended to act as a temporary spacer, creating a physical barrier between tissues in the shoulder, for the treatment of massive irreparable rotator cuff tears.

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

TABLE 1—RESORBABLE SHOULDER SPACER RISKS AND MITIGATION MEASURES

Identified risks	Mitigation measures
No improvement in shoulder function and pain reduction due to device failure from: • Device migration • Device malposition • Device collapse	Clinical performance testing; Non-clinical performance testing; Animal performance testing; and Labeling.
Increased risk of adverse events of the index shoulder (*e.g.,* pain, spasm, and swelling, subsequent medical and surgical treatments secondary to disease progression).	Clinical performance testing; and Labeling.
Adverse tissue reaction	Biocompatibility evaluation; Animal performance testing; Non-clinical performance testing; and Labeling.
Infection	Sterilization validation; Pyrogenicity testing; Shelf life testing; and Labeling.

FDA has determined that special controls, in combination with the general controls, address these risks to health and provide reasonable assurance of safety and effectiveness. For a device to fall within this classification, and thus avoid automatic classification in class III, it would have to comply with the special controls named in this final order. The necessary special controls appear in the regulation codified by this order. We encourage sponsors to consult with us if they wish to use a non-animal testing method they believe is suitable, adequate, validated, and feasible. We will consider if such an alternative method could be assessed for equivalency to an animal test method. This device is subject to premarket notification requirements under section 510(k) of the FD&C Act.

III. Analysis of Environmental Impact

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

IV. Paperwork Reduction Act of 1995

This final order establishes special controls that refer to previously approved collections of information found in other FDA regulations and guidance. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521). The

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

collections of information in 21 CFR part 860, subpart D, regarding De Novo classification have been approved under OMB control number 0910–0844; the collections of information in part 814, subparts A through E, regarding premarket approval, have been approved under OMB control number 0910–0231; the collections of information in part 807, subpart E, regarding premarket notification submissions, have been approved under OMB control number 0910–0120; the collections of information in 21 CFR part 820, regarding quality system regulation, have been approved under OMB control number 0910–0073; and the collections of information in 21 CFR part 801, regarding labeling, have been approved under OMB control number 0910–0485.

List of Subjects in 21 CFR Part 888

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 888 is amended as follows:

PART 888—ORTHOPEDIC DEVICES

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

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

■ 2. Add § 888.3630 to subpart D to read as follows:

§ 888.3630 Resorbable shoulder spacer.

(a) *Identification.* A resorbable shoulder spacer is intended to act as a temporary spacer, creating a physical barrier between tissues in the shoulder, for the treatment of massive irreparable rotator cuff tears.

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

(1) Clinical performance testing must demonstrate that the device performs as intended under anticipated conditions of use and include the following:

(i) Evaluation of improvement of shoulder function and reduction of symptoms (*e.g.,* pain and function) for the indications for use; and

(ii) Evaluation of relevant adverse events.

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

(i) Integrity testing of the device, including mechanical and chemical stability; and

(ii) Characterization of the device degradation profile.

(3) Animal performance testing must include evaluation of the following:

(i) Adverse effects, including gross necropsy and histopathology; and

(ii) Device degradation to verify in vitro versus in vivo degradation correlation.

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

(5) Performance data must support the sterility and pyrogenicity of the device components intended to be sterile.

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

(7) Labeling must include the following:

(i) Instruction for use, including specific instructions regarding device selection and placement;

(ii) A detailed summary of the clinical performance testing with the device, including procedure- and device-related complications or adverse events; and

(iii) A shelf life.

Dated: January 3, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–00012 Filed 1–5–23; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 890

[Docket No. FDA–2022–N–3131]

Medical Devices; Physical Medicine Devices; Classification of the Electroencephalography-Driven Upper Extremity Powered Exerciser

AGENCY: Food and Drug Administration, Department of Health and Human Services (HHS).

ACTION: Final amendment; final order.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) is classifying the electroencephalography (EEG)-driven upper extremity powered exerciser into class II (special controls). The special controls that apply to the device type are identified in this order and will be part of the codified language for the electroencephalography (EEG)-driven upper extremity powered exerciser's classification. We are taking this action because we have determined that classifying the device into class II (special controls) will provide a reasonable assurance of safety and effectiveness of the device. We believe this action will also enhance patients' access to beneficial innovative devices.

DATES: This order is effective January 6, 2023. The classification was applicable on April 23, 2021.

FOR FURTHER INFORMATION CONTACT: Heather Dean, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 4214, Silver Spring, MD, 20993–0002, 240–402–9874, *Heather.Dean@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Upon request, FDA has classified the electroencephalography (EEG)-driven upper extremity powered exerciser as class II (special controls), which we have determined will provide a reasonable assurance of safety and effectiveness. In addition, we believe this action will enhance patients' access to beneficial innovation, in part by placing the device into a lower device class than the automatic class III assignment.

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

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

FDA may also classify a device through ''De Novo'' classification, a common name for the process authorized under section 513(f)(2) of the FD&C Act. Section 207 of the Food and Drug Administration Modernization Act of 1997 (Pub. L. 105–115) established the first procedure for De Novo

classification. Section 607 of the Food and Drug Administration Safety and Innovation Act (Pub. L. 112–144) modified the De Novo application process by adding a second procedure. A device sponsor may utilize either procedure for De Novo classification.

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

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

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

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

II. De Novo Classification

On July 23, 2020, FDA received Neurolutions, Inc.'s request for De Novo classification of the Neurolutions IpsiHand Upper Extremity Rehabilitation System. FDA reviewed the request in order to classify the device under the criteria for classification set forth in section 513(a)(1) of the FD&C Act.

We classify devices into class II if general controls by themselves are insufficient to provide reasonable assurance of safety and effectiveness, but there is sufficient information to establish special controls that, in combination with the general controls, provide reasonable assurance of the safety and effectiveness of the device for its intended use (see 21 U.S.C. 360c(a)(1)(B)). After review of the information submitted in the request, we determined that the device can be classified into class II with the establishment of special controls. FDA has determined that these special controls, in addition to the general controls, will provide reasonable assurance of the safety and effectiveness of the device.

Therefore, on April 23, 2021, FDA issued an order to the requester classifying the device into class II. In this final order, FDA is codifying the classification of the device by adding 21 CFR 890.5420.[1] We have named the generic type of device electroencephalography (EEG)-driven upper extremity powered exerciser, and it is identified as a non-invasive prescription device intended for rehabilitation by driving movement or exercise of an impaired upper extremity in response to the detection of purpose oriented electrical activity produced by the patient's brain.

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

TABLE 1—ELECTROENCEPHALOGRAPHY (EEG)-DRIVEN UPPER EXTREMITY POWERED EXERCISER RISKS AND MITIGATION MEASURES

Identified risks	Mitigation measures
Device provides ineffective treatment, leading to worsening condition	Clinical performance testing, Software verification, validation, and hazard analysis, and Wireless compatibility testing.
Unintended motion leading to injury	Software verification, validation, and hazard analysis.
Thermal injury including burns and shock	Electromagnetic compatibility testing, Electrical safety testing, Battery safety testing, and Labeling.
Adverse tissue reaction	Biocompatibility evaluation, and Labeling.
Cross contamination, leading to infection or adverse tissue reaction	Reprocessing validation, and Labeling.
Pain or discomfort including: • Headache. • Fatigue. • Skin redness.	Labeling, and Clinical performance testing.

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

At the time of classification, the electroencephalography (EEG)-driven upper extremity powered exerciser is for prescription use only. Prescription devices are exempt from the requirement for adequate directions for use for the layperson under section 502(f)(1) of the FD&C Act (21 U.S.C. 352(f)(1)) and 21 CFR 801.5, as long as the conditions of 21 CFR 801.109 are met.

III. Analysis of Environmental Impact

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

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

IV. Paperwork Reduction Act of 1995

This final order establishes special controls that refer to previously approved collections of information found in other FDA regulations and guidance. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521). The collections of information in 21 CFR part 860, subpart D, regarding De Novo classification have been approved under OMB control number 0910–0844; the collections of information in 21 CFR part 814, subparts A through E, regarding premarket approval, have been approved under OMB control number 0910–0231; the collections of information in part 807, subpart E, regarding premarket notification submissions, have been approved under OMB control number 0910–0120; the collections of information in 21 CFR part 820, regarding quality system regulation, have been approved under OMB control number 0910–0073; and the collections of information in 21 CFR part 801 regarding labeling, have been approved under OMB control number 0910–0485.

List of Subjects in 21 CFR Part 890

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 890 is amended as follows:

PART 890—PHYSICAL MEDICINE DEVICES

■ 1. The authority citation for part 890 continues to read as follows:

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

■ 2. Add § 890.5420 to subpart F to read as follows:

§ 890.5420 Electroencephalography (EEG)-driven upper extremity powered exerciser.

(a) *Identification.* An EEG-driven upper extremity powered exerciser is a non-invasive prescription device intended for rehabilitation by driving movement or exercise of an impaired upper extremity in response to the detection of purpose oriented electrical activity produced by the patient's brain.

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

(1) Clinical performance testing must demonstrate that the device performs as intended under anticipated conditions of use. Testing must capture any adverse events observed during clinical use and must demonstrate that the EEG signal can be translated into intended motion.

(2) Software verification, validation, and hazard analysis must be performed.

(3) Performance data must demonstrate the electromagnetic compatibility, electrical safety, battery safety, and wireless compatibility of the device.

(4) The device components that contact the patient must be demonstrated to be biocompatible.

(5) Performance data must validate the reprocessing instructions for the reusable components of the device.

(6) Labeling must include:

(i) Instructions on fitting the device to the patient;

(ii) Information on how the device operates and the typical sensations experienced during treatment; and

(iii) Reprocessing instructions.

Dated: January 3, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–00007 Filed 1–5–23; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 890

[Docket No. FDA–2022–N–3184]

Medical Devices; Physical Medicine Devices; Classification of the Virtual Reality Behavioral Therapy Device for Pain Relief

AGENCY: Food and Drug Administration, Department of Health and Human Services (HHS).

ACTION: Final amendment; final order.

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

DATES: This order is effective January 6, 2023. The classification was applicable on November 16, 2021.

FOR FURTHER INFORMATION CONTACT: Kaitlin Olsen, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 4212, Silver Spring, MD 20993–0002, 240–402–9983, *Kaitlin.Olsen@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Upon request, FDA has classified the virtual reality behavioral therapy device for pain relief as class II (special controls), which we have determined will provide a reasonable assurance of safety and effectiveness. In addition, we believe this action will enhance patients' access to beneficial innovation, in part by placing the device into a lower device class than the automatic class III assignment.

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

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

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

Under the first procedure, the person submits a 510(k) for a device that has not previously been classified. After

receiving an order from FDA classifying the device into class III under section 513(f)(1) of the FD&C Act, the person then requests a classification under section 513(f)(2).

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

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

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

II. De Novo Classification

On March 30, 2021, FDA received AppliedVR Inc.'s request for De Novo classification of the EaseVRx. FDA reviewed the request in order to classify the device under the criteria for classification set forth in section 513(a)(1) of the FD&C Act.

We classify devices into class II if general controls by themselves are insufficient to provide reasonable assurance of safety and effectiveness, but there is sufficient information to establish special controls that, in combination with the general controls, provide reasonable assurance of the safety and effectiveness of the device for its intended use (see 21 U.S.C. 360c(a)(1)(B)). After review of the information submitted in the request, we determined that the device can be classified into class II with the establishment of special controls. FDA has determined that these special controls, in addition to the general controls, will provide reasonable assurance of the safety and effectiveness of the device.

Therefore, on November 16, 2021, FDA issued an order to the requester classifying the device into class II. In this final order, FDA is codifying the classification of the device by adding 21 CFR 890.5800.[1] We have named the generic type of device virtual reality behavioral therapy device for pain relief, and it is identified as a device intended to provide behavioral therapy for patients with pain. Therapy is administered via a virtual reality display that utilizes a software program containing the behavioral therapy content.

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

TABLE 1—VIRTUAL REALITY BEHAVIORAL THERAPY DEVICE FOR PAIN RELIEF RISKS AND MITIGATION MEASURES

Identified risks to health	Mitigation measures
Adverse tissue reaction	Biocompatibility evaluation.
Electric shock or burn or interference with other devices	Electromagnetic compatibility testing, and Electrical, mechanical, and thermal safety testing.
Nausea and motion sickness	Clinical performance testing, and Labeling.
Discomfort	Clinical performance testing, and Labeling.
Ineffective treatment	Clinical performance testing, Software verification, validation, and hazard analysis, and Labeling.
Use error or improper device use leading to a delay in treatment	Labeling.

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

III. Analysis of Environmental Impact

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

IV. Paperwork Reduction Act of 1995

This final order establishes special controls that refer to previously approved collections of information found in other FDA regulations and guidance. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521). The collections of information in 21 CFR part 860, subpart D, regarding De Novo classification have been approved under OMB control number 0910–0844; the collections of information in 21 CFR part 814, subparts A through E, regarding premarket approval, have been approved under OMB control number 0910–0231; the collections of information in part 807, subpart E, regarding premarket notification submissions, have been approved under OMB control number 0910–0120; the collections of information in 21 CFR part 820, regarding quality system regulation, have been approved under OMB control number 0910–0073; and the collections of information in 21 CFR part 801, regarding labeling, have been approved under OMB control number 0910–0485.

List of Subjects in 21 CFR Part 890

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner

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

of Food and Drugs, 21 CFR part 890 is amended as follows:

PART 890—PHYSICAL MEDICINE DEVICES

■ 1. The authority citation for part 890 continues to read as follows:

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

■ 2. Add § 890.5800 to subpart F to read as follows:

§ 890.5800 Virtual reality behavioral therapy device for pain relief.

(a) *Identification.* A virtual reality behavioral therapy device for pain relief is a device intended to provide behavioral therapy for patients with pain. Therapy is administered via a virtual reality display that utilizes a software program containing the behavioral therapy content.

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

(1) Clinical performance testing under the labeled conditions for use must validate the model of behavioral therapy as implemented by the device and evaluate all adverse events.

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

(3) Software verification, validation, and hazard analysis must be performed.

(4) Electromagnetic compatibility and electrical, mechanical, and thermal safety testing must be performed.

(5) Labeling must include the following:

(i) A warning regarding the risk of nausea and motion sickness;

(ii) A warning regarding the risk of discomfort from the device; and

(iii) A summary of the clinical testing with the device.

Dated: January 3, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–00014 Filed 1–5–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Parts 36 and 42

RIN 2900–AR79

Federal Civil Penalties Inflation Adjustment Act Amendments

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) is amending its regulations to adjust for inflation the amount of civil monetary penalties that are within VA's jurisdiction. These adjustments comply with the requirement in the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, to make annual adjustments to the penalties.

DATES: This rule is effective January 6, 2023.

FOR FURTHER INFORMATION CONTACT: Stephanie Li, Chief, Regulations Team, Loan Guaranty Service (26), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 632–8862. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On November 2, 2015, the President signed into law the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (2015 Act) (Pub. L. 114–74, sec. 701, 129 Stat. 584, 599–600), which amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410, sec. 5, 104 Stat. 890, 891–892), to improve the effectiveness of civil monetary penalties and to maintain their deterrent effect. The amended statute, codified in a note following 28 U.S.C. 2461, requires agencies to publish annual adjustments for inflation, based on the percentage change between the Consumer Price Index (defined in the statute as the Consumer Price Index for all-urban consumers (CPI–U) published by the Department of Labor) for the month of October preceding the date of the adjustment and the prior year's October CPI–U. 28 U.S.C. 2461 note, secs. 4(a) and (b) and 5(b)(1). This rule implements the 2023 calendar year inflation adjustment amounts.

Under 38 U.S.C. 3710(g)(4)(B), VA is authorized to levy civil monetary penalties against private lenders that originate VA-guaranteed loans if a lender falsely certifies that they have complied with certain credit information and loan processing standards, as set forth by chapter 37, title 38 U.S.C. and part 36, title 38 CFR. Under section 3710(g)(4)(B), any lender who knowingly and willfully makes such a false certification shall be liable to the United States Government for a civil penalty equal to two times the amount of the Secretary's loss on the loan involved or to another appropriate amount, not to exceed $10,000, whichever is greater. VA implemented the penalty amount in 38 CFR 36.4340(k)(1)(i) and (k)(3). On December 15, 2022, the Office of Management and Budget (OMB) issued Circular M–23–05. This circular reflects that the October 2021 CPI–U was 276.589 and the October 2022 CPI–U was 298.012, resulting in an inflation adjustment multiplier of 1.07745. Accordingly, the calendar year 2023 inflation revision imposes an adjustment from $25,076 to $27,018.

Under 31 U.S.C. 3802, VA can impose monetary penalties against any person who makes, presents, or submits a claim or written statement to VA that the person knows or has reason to know is false, fictitious, or fraudulent, or who engages in other covered conduct. The statute permits, in addition to any other remedy that may be prescribed by law, a civil penalty of not more than $5,000 for each claim. 31 U.S.C. 3802(a)(1) and (2). VA implemented the penalty amount in 38 CFR 42.3(a)(1)(iv) and (b)(1)(ii). As previously noted, OMB Circular M–23–05 reflects an inflation adjustment multiplier of 1.07745. Therefore, the calendar year 2023 inflation revision imposes an adjustment from $12,537 to $13,508.

Accordingly, VA is revising 38 CFR 36.4340(k)(1)(i) and (3) and 38 CFR 42.3(a)(1)(iv) and (b)(1)(ii) to reflect the 2023 inflationary adjustments for civil monetary penalties assessed or enforced by VA.

Administrative Procedure Act

The Secretary of Veterans Affairs finds that there is good cause under 5 U.S.C. 553(b)(B) and (d)(3) to dispense with the opportunity for prior notice and public comment and to publish this rule with an immediate effective date. The statute requires agencies to make annual adjustments for inflation to the allowed amounts of civil monetary penalties ''notwithstanding section 553 of title 5, United States Code.'' 28 U.S.C. 2461 note, sec. 4(a) and (b). The penalty adjustments, and the methodology used to determine the adjustments, are set by the terms of the statute. VA has no discretion to make changes in those areas. Therefore, an opportunity for prior notice and public comment and a delayed effective date are unnecessary.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of

quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. The Office of Information and Regulatory Affairs has determined that this rule is not a significant regulatory action under Executive Order 12866. The Regulatory Impact Analysis associated with this rulemaking can be found as a supporting document at *www.regulations.gov.*

Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601–612, is not applicable to this rulemaking because notice of proposed rulemaking is not required. 5 U.S.C. 601(2), 603(a), 604(a).

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This final rule will have no such effect on State, local, and tribal governments, or on the private sector.

Paperwork Reduction Act

This final rule contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this rule as not a major rule, as defined by 5 U.S.C. 804(2).

List of Subjects

38 CFR Part 36

Condominiums, Housing, Individuals with disabilities, Loan programs—housing and community development, Loan programs—veterans, Manufactured homes, Mortgage insurance, Reporting and recordkeeping requirements, Veterans.

38 CFR Part 42

Administrative practice and procedure, Claims, Fraud, Penalties.

Signing Authority: Denis McDonough, Secretary of Veterans Affairs, approved this document on December 20, 2022, and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

Consuela Benjamin,

Regulations Development Coordinator, Office of Regulation Policy & Management, Office of General Counsel, Department of Veterans Affairs.

For the reasons stated in the preamble, the Department of Veterans Affairs amends 38 CFR parts 36 and 42 as set forth below:

PART 36—LOAN GUARANTY

■ 1. The authority citation for part 36 continues to read as follows:

Authority: 38 U.S.C. 501 and 3720.

§ 36.4340 [Amended]

■ 2. In § 36.4340, amend paragraphs (k)(1)(i) introductory text and (k)(3) by removing ''$25,067'' and adding in its place ''$27,018''.

PART 42—STANDARDS IMPLEMENTING THE PROGRAM FRAUD CIVIL REMEDIES ACT

■ 3. The authority citation for part 42 continues to read as follows:

Authority: Pub. L. 99–509, secs. 6101–6104, 100 Stat. 1874, codified at 31 U.S.C. 3801–3812.

§ 42.3 [Amended]

■ 4. In § 42.3, amend paragraphs (a)(1)(iv) and (b)(1)(ii) by removing ''$12,537'' and adding in its place ''$13,508''.

[FR Doc. 2022–28481 Filed 1–5–23; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 19

[FRL–5906.7–01–OECA]

Civil Monetary Penalty Inflation Adjustment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is promulgating this final rule to adjust the level of the maximum (and minimum) statutory civil monetary penalty amounts under the statutes the EPA administers. This action is mandated by the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended through the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (''the 2015 Act''). The 2015 Act prescribes a formula for annually adjusting the statutory maximum (and minimum) amount of civil monetary penalties to reflect inflation, maintain the deterrent effect of statutory civil monetary penalties, and promote compliance with the law. The rule does not establish specific civil monetary penalty amounts the EPA may seek in particular cases, as appropriate given the facts of particular cases and applicable agency penalty policies. The EPA's civil penalty policies, which guide enforcement personnel on how to exercise the EPA's discretion within statutory penalty authorities, take into account a number of fact-specific considerations, *e.g.,* the seriousness of the violation, the violator's good faith efforts to comply, any economic benefit gained by the violator as a result of its noncompliance, and the violator's ability to pay.

DATES: This final rule is effective January 6, 2023.

FOR FURTHER INFORMATION CONTACT: David Smith-Watts, Office of Civil Enforcement, Office of Enforcement and Compliance Assurance, Mail Code 2241A, Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460, telephone number: (202) 564–4083; *smith-watts.david@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The 2015 Act [1] requires each Federal agency to adjust the level of statutory civil monetary penalties under the laws implemented by that agency with annual adjustments to account for inflation. Section 4 of the 2015 Act requires each Federal agency to publish these adjustments by January 15 of each year. The purpose of the 2015 Act is to maintain the deterrent effect of civil monetary penalties by translating originally enacted statutory civil penalty amounts to today's dollars and rounding statutory civil penalties to the nearest dollar.

Since January 15, 2017, the EPA has made six annual adjustments: on January 12, 2017, effective on January 15, 2017 (82 FR 3633); on January 10, 2018, effective on January 15, 2018 (83 FR 1190); on February 6, 2019, effective the same day (84 FR 2056), with a subsequent correction on February 25, 2019 (84 FR 5955); on January 13, 2020, effective the same day (85 FR 1751); on December 23, 2020, effective the same day (85 FR 83818); and on January 12,

[1] The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Section 701 of Pub. L.114–74) was signed into law on November 2, 2015, and further amended the Federal Civil Penalties Inflation Adjustment Act of 1990.

2022, effective the same day (87 FR 1676). This rule implements the seventh annual adjustment mandated by the 2015 Act.

The 2015 Act provides a formula for calculating the adjustments. Each statutory maximum and minimum [2] civil monetary penalty, as currently adjusted, is multiplied by the cost-of-living adjustment multiplier, which is the percentage by which the Consumer Price Index for all Urban Consumers (CPI–U) for the month of October 2022 exceeds the CPI–U for the month of October 2021.[3]

With this rule, the new statutory maximum and minimum penalty levels listed in the third column of Table 1 of 40 CFR 19.4 will apply to all civil monetary penalties assessed on or after January 6, 2023, for violations that occurred after November 2, 2015, the date the 2015 Act was enacted. The former maximum and minimum statutory civil monetary penalty levels, which are in the fourth column of Table 1 to 40 CFR 19.4, will now apply only to violations that occurred after November 2, 2015, where the penalties were assessed on or after January 12, 2022, but before January 6, 2023. The statutory civil monetary penalty levels that apply to violations that occurred on or before November 2, 2015, are codified at Table 2 to 40 CFR 19.4. The fifth column of Table 1 and the seventh column of Table 2 display the statutory civil monetary penalty levels as originally enacted.

The formula for determining the cost-of-living or inflation adjustment to statutory civil monetary penalties consists of the following steps:

Step 1: The cost-of-living adjustment multiplier for 2023 is the percentage by which the CPI–U of October 2022 (298.012) exceeds the CPI–U for the month of October 2021 (276.589), which is 1.07745.[4] Multiply 1.07745 by the current penalty amount. This is the raw adjusted penalty value.

Step 2: Round the raw adjusted penalty value. Section 5 of the 2015 Act states that any adjustment shall be rounded to the nearest multiple of $1. The result is the final penalty value for the year.

II. The 2015 Act Requires Federal Agencies To Publish Annual Penalty Inflation Adjustments Notwithstanding Section 553 of the Administrative Procedure Act

Pursuant to section 4 of the 2015 Act, each Federal agency is required to publish adjustments no later than January 15 each year. In accordance with section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553, most rules are subject to notice and comment and are effective no earlier than 30 days after publication in the **Federal Register**. However, section 4(b)(2) of the 2015 Act provides that each agency shall make the annual inflation adjustments ''notwithstanding section 553'' of the APA. Consistent with the language of the 2015 Act, this rule is not subject to notice and an opportunity for public comment and will be effective on January 6, 2023.

III. Statutory and Executive Order Reviews

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

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

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

B. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA. This rule merely increases the level of statutory civil monetary penalties that can be imposed in the context of a Federal civil administrative enforcement action or civil judicial case for violations of EPA-administered statutes and their implementing regulations.

C. Regulatory Flexibility Act (RFA)

This action is not subject to the RFA. The RFA applies only to rules subject to notice and comment rulemaking requirements under the Administrative Procedure Act (APA), 5 U.S.C. 553, or any other statute. Because the 2015 Act directs Federal agencies to publish this rule notwithstanding section 553 of the APA, this rule is not subject to notice and comment requirements or the RFA.

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. This action is required by the 2015 Act, without the exercise of any policy discretion by the EPA. This action also imposes no enforceable duty on any state, local or tribal governments or the private sector. Because the calculation of any increase is formula-driven pursuant to the 2015 Act, the EPA has no policy discretion to vary the amount of the adjustment.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

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

This action does not have tribal implications as specified in Executive Order 13175. This rule merely reconciles the real value of current statutory civil monetary penalty levels to reflect and keep pace with the levels originally set by Congress when the statutes were enacted or amended. The calculation of the increases is formula-driven and prescribed by statute, and the EPA has no discretion to vary the amount of the adjustment to reflect any views or suggestions provided by commenters. Accordingly, this rule will not have a substantial direct effect on tribal governments, 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.

[2] Under Section 3(2)(A) of the 2015 Act, a '' 'civil monetary penalty' [is] any penalty, fine or other sanction that—is for a specific monetary amount as provided by Federal law; or has a maximum amount provided for by Federal law.'' EPA-administered statutes generally refer to statutory maximum penalties, with the following exceptions: Section 311(b)(7)(D) of the Clean Water Act, 33 U.S.C. 1321(b)(7)(D), refers to a minimum penalty of ''not less than $100,000 . . .''; Section 104b(d)(1)(A) of the Marine Protection, Research, and Sanctuaries Act, 33 U.S.C. 1414b(d)(1)(A), refers to an exact penalty of $600 ''[f]or each dry ton (or equivalent) of sewage sludge or industrial waste dumped or transported by the person in violation of this subsection in calendar year 1992 . . .''; and Section 325(d)(1) of the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. 11045(d)(1), refers to an exact civil penalty of $25,000 for each frivolous trade secret claim.

[3] Current and historical CPI–U's can be found on the Bureau of Labor Statistics' website here: *https://www.bls.gov/cpi/tables/supplemental-files/historical-cpi-u-202210.pdf.*

[4] Section 5(b) of the 2015 Act provides that the term ''cost-of-living adjustment'' means the percentage (if any) for each civil monetary penalty by which—

(A) the Consumer Price Index for the month of October preceding the date of the adjustment, exceeds

(B) the Consumer Price Index for the month of October 1 year before the month of October referred to in subparagraph (A).

Because the CPI–U for October 2022 is 298.012 and the CPI–U for October 2021 is 276.589, the cost-of-living multiplier is 1.07745 (298.012 divided by 276.589).

Thus, Executive Order 13175 does not apply to this action.

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

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

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

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

I. National Technology Transfer and Advancement Act (NTTAA)

The rulemaking does not involve technical standards.

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

Executive Order 12898 (59 FR 7629, February 16, 1994) directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations (people of color) and low-income populations.

The EPA believes that this type of action does not concern human health or environmental conditions and therefore cannot be evaluated with respect to potentially disproportionate and adverse effects on people of color, low-income populations and/or Indigenous peoples. Rather, this action is mandated by the 2015 Act, which prescribes a formula for adjusting statutory civil penalties on an annual basis to reflect inflation.

K. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. The CRA allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and comment rulemaking procedures are impracticable, unnecessary or contrary to the public interest (5 U.S.C. 808(2)). The EPA finds that the APA's notice and comment rulemaking procedures are unnecessary because the 2015 Act directs Federal agencies to publish their annual penalty inflation adjustments ''notwithstanding section 553 [of the APA].''

List of Subjects in 40 CFR Part 19

Environmental protection, Administrative practice and procedure, Penalties.

Michael S. Regan,

Administrator.

For the reasons set out in the preamble, the EPA amends title 40, chapter I, part 19 of the Code of Federal Regulations as follows:

PART 19—ADJUSTMENT OF CIVIL MONETARY PENALTIES FOR INFLATION

■ 1. The authority citation for part 19 continues to read as follows:

Authority: Pub. L. 101–410, Oct. 5, 1990, 104 Stat. 890, as amended by Pub. L. 104–134, title III, sec. 31001(s)(1), Apr. 26, 1996, 110 Stat. 1321–373; Pub. L. 105–362, title XIII, sec. 1301(a), Nov. 10, 1998, 112 Stat. 3293; Pub. L. 114–74, title VII, sec. 701(b), Nov. 2, 2015, 129 Stat. 599.

■ 2. Revise § 19.2 to read as follows:

§ 19.2 Effective date.

(a) The statutory civil monetary penalty levels set forth in the third column of Table 1 of § 19.4 apply to all violations which occur or occurred after November 2, 2015, where the penalties are assessed on or after January 6, 2023. The statutory civil monetary penalty levels set forth in the fourth column of Table 1 of § 19.4 apply to all violations which occurred after November 2, 2015, where the penalties were assessed on or after January 12, 2022, but before January 6, 2023.

(b) The statutory monetary penalty levels in the third column of Table 2 to § 19.4 apply to all violations which occurred after December 6, 2013 through November 2, 2015, and to violations occurring after November 2, 2015, where penalties were assessed before August 1, 2016. The statutory civil monetary penalty levels set forth in the fourth column of Table 2 of § 19.4 apply to all violations which occurred after January 12, 2009 through December 6, 2013. The statutory civil monetary penalty levels set forth in the fifth column of Table 2 of § 19.4 apply to all violations which occurred after March 15, 2004 through January 12, 2009. The statutory civil monetary penalty levels set forth in the sixth column of Table 2 of § 19.4 apply to all violations which occurred after January 30, 1997 through March 15, 2004.

■ 3. Amend § 19.4 by revising the section heading, introductory text, and Table 1 of § 19.4 to read as follows:

§ 19.4 Statutory civil monetary penalties, as adjusted for inflation, and tables.

Table 1 of this section sets out the statutory civil monetary penalty provisions of statutes administered by the EPA, with the third column setting out the latest operative statutory civil monetary penalty levels for violations that occur or occurred after November 2, 2015, where penalties are assessed on or after January 6, 2023. The fourth column displays the operative statutory civil monetary penalty levels where penalties were assessed on or after January 12, 2022, but before January 6, 2023. Table 2 of this section sets out the statutory civil monetary penalty provision of statutes administered by the EPA, with the operative statutory civil monetary penalty levels, as adjusted for inflation, for violations that occurred on or before November 2, 2015, and for violations that occurred after November 2, 2015, where penalties were assessed before August 1, 2016.

TABLE 1 OF § 19.4—CIVIL MONETARY PENALTY INFLATION ADJUSTMENTS

U.S. Code citation	Environmental statute	Statutory civil monetary penalties for violations that occur or occurred after November 2, 2015, where penalties are assessed on or after January 6, 2023	Statutory civil monetary penalties for violations that occurred after November 2, 2015, where penalties were assessed on or after January 12, 2022, but before January 6, 2023	Statutory civil monetary penalties, as enacted
7 U.S.C. 136*l*(a)(1)	FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT (FIFRA).	$23,494	$21,805	$5,000

TABLE 1 OF § 19.4—CIVIL MONETARY PENALTY INFLATION ADJUSTMENTS—Continued

U.S. Code citation	Environmental statute	Statutory civil monetary penalties for violations that occur or occurred after November 2, 2015, where penalties are assessed on or after January 6, 2023	Statutory civil monetary penalties for violations that occurred after November 2, 2015, where penalties were assessed on or after January 12, 2022, but before January 6, 2023	Statutory civil monetary penalties, as enacted
7 U.S.C. 136*l*(a)(2) [1]	FIFRA	3,446/2,221/3,446	3,198/2,061/3,198	1,000/500/1,000
15 U.S.C. 2615(a)(1)	TOXIC SUBSTANCES CONTROL ACT (TSCA).	46,989	43,611	25,000
15 U.S.C. 2647(a)	TSCA	13,508	12,537	5,000
15 U.S.C. 2647(g)	TSCA	11,162	10,360	5,000
31 U.S.C. 3802(a)(1)	PROGRAM FRAUD CIVIL REMEDIES ACT (PFCRA).	13,508	12,537	5,000
31 U.S.C. 3802(a)(2)	PFCRA	13,508	12,537	5,000
33 U.S.C. 1319(d)	CLEAN WATER ACT (CWA)	64,618	59,973	25,000
33 U.S.C. 1319(g)(2)(A)	CWA	25,847/64,618	23,989/59,973	10,000/25,000
33 U.S.C. 1319(g)(2)(B)	CWA	25,847/323,081	23,989/299,857	10,000/125,000
33 U.S.C. 1321(b)(6)(B)(i)	CWA	22,324/55,808	20,719/51,796	10,000/25,000
33 U.S.C. 1321(b)(6)(B)(ii)	CWA	22,324/279,036	20,719/258,978	10,000/125,000
33 U.S.C. 1321(b)(7)(A)	CWA	55,808/2,232	51,796/2,072	25,000/1,000
33 U.S.C. 1321(b)(7)(B)	CWA	55,808	51,796	25,000
33 U.S.C. 1321(b)(7)(C)	CWA	55,808	51,796	25,000
33 U.S.C. 1321(b)(7)(D)	CWA	223,229/6,696	207,183/6,215	100,000/3,000
33 U.S.C. 1414b(d)(1)(A)	MARINE PROTECTION, RESEARCH, AND SANCTUARIES ACT (MPRSA).	1,487	1,380	600
33 U.S.C. 1415(a)	MPRSA	234,936/309,909	218,048/287,632	50,000/125,000
33 U.S.C. 1901 note (*see* 1409(a)(2)(A)).	CERTAIN ALASKAN CRUISE SHIP OPERATIONS (CACSO).	17,128/42,818	15,897/39,740	10,000/25,000
33 U.S.C. 1901 note (*see* 1409(a)(2)(B)).	CACSO	17,128/214,087	15,897/198,698	10,000/125,000
33 U.S.C. 1901 note (*see* 1409(b)(1)).	CACSO	42,818	39,740	25,000
33 U.S.C. 1908(b)(1)	ACT TO PREVENT POLLUTION FROM SHIPS (APPS).	87,855	81,540	25,000
33 U.S.C. 1908(b)(2)	APPS	17,570	16,307	5,000
42 U.S.C. 300g–3(b)	SAFE DRINKING WATER ACT (SDWA)	67,544	62,689	25,000
42 U.S.C. 300g–3(g)(3)(A)	SDWA	67,544	62,689	25,000
42 U.S.C. 300g–3(g)(3)(B)	SDWA	13,508/47,061	12,537/43,678	5,000/25,000
42 U.S.C. 300g–3(g)(3)(C)	SDWA	47,061	43,678	25,000
42 U.S.C. 300h–2(b)(1)	SDWA	67,544	62,689	25,000
42 U.S.C. 300h–2(c)(1)	SDWA	27,018/337,725	25,076/313,448	10,000/125,000
42 U.S.C. 300h–2(c)(2)	SDWA	13,508/337,725	12,537/313,448	5,000/125,000
42 U.S.C. 300h–3(c)	SDWA	23,494/50,120	21,805/46,517	5,000/10,000
42 U.S.C. 300i(b)	SDWA	28,239	26,209	15,000
42 U.S.C. 300i–1(c)	SDWA	164,373/1,643,738	152,557/1,525,582	100,000/1,000,000
42 U.S.C. 300j(e)(2)	SDWA	11,746	10,902	2,500
42 U.S.C. 300j–4(c)	SDWA	67,544	62,689	25,000
42 U.S.C. 300j–6(b)(2)	SDWA	47,061	43,678	25,000
42 U.S.C. 300j–23(d)	SDWA	12,397/123,965	11,506/115,054	5,000/50,000
42 U.S.C. 4852d(b)(5)	RESIDENTIAL LEAD-BASED PAINT HAZARD REDUCTION ACT OF 1992.	21,018	19,507	10,000
42 U.S.C. 4910(a)(2)	NOISE CONTROL ACT OF 1972	44,411	41,219	10,000
42 U.S.C. 6928(a)(3)	RESOURCE CONSERVATION AND RECOVERY ACT (RCRA).	117,468	109,024	25,000
42 U.S.C. 6928(c)	RCRA	70,752	65,666	25,000
42 U.S.C. 6928(g)	RCRA	87,855	81,540	25,000
42 U.S.C. 6928(h)(2)	RCRA	70,752	65,666	25,000
42 U.S.C. 6934(e)	RCRA	17,570	16,307	5,000
42 U.S.C. 6973(b)	RCRA	17,570	16,307	5,000
42 U.S.C. 6991e(a)(3)	RCRA	70,752	65,666	25,000
42 U.S.C. 6991e(d)(1)	RCRA	28,304	26,269	10,000
42 U.S.C. 6991e(d)(2)	RCRA	28,304	26,269	10,000
42 U.S.C. 7413(b)	CLEAN AIR ACT (CAA)	117,468	109,024	25,000
42 U.S.C. 7413(d)(1)	CAA	55,808/446,456	51,796/414,364	25,000/200,000
42 U.S.C. 7413(d)(3)	CAA	11,162	10,360	5,000
42 U.S.C. 7524(a)	CAA	55,808/5,580	51,796/5,179	25,000/2,500
42 U.S.C. 7524(c)(1)	CAA	446,456	414,364	200,000
42 U.S.C. 7545(d)(1)	CAA	55,808	51,796	25,000
42 U.S.C. 9604(e)(5)(B)	COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT (CERCLA).	67,544	62,689	25,000
42 U.S.C. 9606(b)(1)	CERCLA	67,544	62,689	25,000
42 U.S.C. 9609(a)(1)	CERCLA	67,544	62,689	25,000
42 U.S.C. 9609(b)	CERCLA	67,544/202,635	62,689/188,069	25,000/75,000
42 U.S.C. 9609(c)	CERCLA	67,544/202,635	62,689/188,069	25,000/75,000
42 U.S.C. 11045(a)	EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT (EPCRA).	67,544	62,689	25,000
42 U.S.C. 11045(b)(1)(A)	EPCRA	67,544	62,689	25,000
42 U.S.C. 11045(b)(2)	EPCRA	67,544/202,635	62,689/188,069	25,000/75,000
42 U.S.C. 11045(b)(3)	EPCRA	67,544/202,635	62,689/188,069	25,000/75,000
42 U.S.C. 11045(c)(1)	EPCRA	67,544	62,689	25,000

TABLE 1 OF § 19.4—CIVIL MONETARY PENALTY INFLATION ADJUSTMENTS—Continued

U.S. Code citation	Environmental statute	Statutory civil monetary penalties for violations that occur or occurred after November 2, 2015, where penalties are assessed on or after January 6, 2023	Statutory civil monetary penalties for violations that occurred after November 2, 2015, where penalties were assessed on or after January 12, 2022, but before January 6, 2023	Statutory civil monetary penalties, as enacted
42 U.S.C. 11045(c)(2)	EPCRA	27,018	25,076	10,000
42 U.S.C. 11045(d)(1)	EPCRA	67,544	62,689	25,000
42 U.S.C. 14304(a)(1)	MERCURY-CONTAINING AND RECHARGEABLE BATTERY MANAGEMENT ACT (BATTERY ACT).	18,827	17,474	10,000
42 U.S.C. 14304(g)	BATTERY ACT	18,827	17,474	10,000

[1] Note that 7 U.S.C. 136*l*(a)(2) contains three separate statutory maximum civil penalty provisions. The first mention of 1,000 and the 500 statutory maximum civil penalty amount were originally enacted in 1978 (Pub. L 95–396), and the second mention of 1,000 was enacted in 1972 (Pub. L. 92–516).

* * * * *

[FR Doc. 2022–28611 Filed 1–5–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2021–0209; FRL–10495–01–OCSPP]

Extract of Caesalpinia Spinosa; 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 extract of *Caesalpinia spinosa* in or on all food commodities when used in accordance with good agricultural practices. Exponent, on behalf of Ag Chem Resources, LLC, submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of extract of *Caesalpinia spinosa* when used in accordance with this exemption.

DATES: This regulation is effective January 6, 2023. Objections and requests for hearings must be received on or before March 7, 2023, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2021–0209, 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 and the OPP docket is (202) 566–1744. For the latest status information on EPA/DC services, docket access, visit *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Charles Smith, Biopesticides and Pollution Prevention Division (7511M), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (202) 566–1400; email address: *BPPDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

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

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

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

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

Under FFDCA section 408(g), 21 U.S.C. 346a(g), any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2021–0209 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 March 7, 2023. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2021–0209 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. Background and Statutory Findings

In the **Federal Register** of April 22, 2021 (86 FR 21317) (FRL–10022–59), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide tolerance petition (PP0F8893) by Ag Chem Resources, LLC, 10120 Dutch Iris Drive, Bakersfield, CA 93311. The petition requested that 40 CFR part 180 be amended by establishing an exemption from the requirement of a tolerance for residues of extract of *Caesalpinia spinosa* in or on raw agricultural commodities and processed foods when used in accordance with good agricultural practices. That document referenced a summary of the petition prepared by the petitioner Ag Chem Resources, c/o Exponent, which is available in the docket, *https://www.regulations.gov* (EPA–HQ–OPP–2021–0209). There were no comments received in response to the notice of filing.

III. 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. Pursuant to FFDCA section 408(c)(2)(B), in establishing or maintaining in effect an exemption from the requirement of a tolerance, EPA must take into account the factors set forth in FFDCA section 408(b)(2)(C), which require 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 . . . . '' Additionally, FFDCA section 408(b)(2)(D) requires that the Agency consider ''available information concerning the cumulative effects of a particular pesticide's residues'' and ''other substances that have a common mechanism of toxicity.''

EPA establishes exemptions from the requirement of a tolerance only in those cases where it can be clearly demonstrated that the risks from aggregate exposure to pesticide chemical residues under reasonably foreseeable circumstances will pose no harm to human health. 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 pesticide chemical residue, 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 extract of *Caesalpinia spinosa* including exposure resulting from the exemption established by this action. EPA's assessment of exposures and risks associated with extract of *Caesalpinia spinosa* follows.

IV. Toxicological Profile

Extract of *Caesalpinia spinosa* is a tannin-rich extract from the seed pods of Peruvian tara trees (*Caesalpinia spinosa*). There is a long history of safe exposure to tannins as these compounds are a part of the human diet and are naturally present in coffee and tea and nearly all vegetation, including in leaves, twigs, bark, wood, or fruit (U.S. EPA, 2006). Tannin compounds are found throughout the plant kingdom in forms ranging from simple phenols to macromolecules. Tannic acid is the macromolecule tannin compound found in *Caesalpinia spinosa* extract.

In conducting its hazard assessment for extract of *Caesalpinia spinosa,* EPA relied on the following data/information to satisfy the data requirements: (1) guideline acute toxicity studies; (2) guideline for the 90-day oral toxicity, prenatal developmental toxicity, and genetic toxicity studies; and (3) data waivers supported by information from open scientific literature in lieu of guideline studies for the 90-day dermal and 90-day inhalation data requirements. No adverse effects have been identified in the available data.

Extract of *Caesalpinia spinosa* has a low acute toxicity profile as evident by its toxicity Category IV classification for acute inhalation, acute dermal, acute oral toxicity, primary eye irritation, and primary dermal irritation. extract of *Caesalpinia spinosa* is not a dermal sensitizer.

To address the subchronic 90-day dermal data requirement, EPA granted a waiver based upon a weight of the evidence (WOE) approach as follows: (1) Extract of *Caesalpinia spinosa* is considered non-irritating to the skin, is not a dermal sensitizer, and is classified as Toxicity Category IV for acute dermal toxicity; (2) tannic acid is naturally occuring with a long history of exposure without adverse reactions seen in cosmetics and foods approved for use by the FDA; (3) the non-water component of the extract, tannin acid, has physiochemical properties that suggest a low probability for dermal penetration.

In terms of the 90 day-inhalation toxicity data requirement, EPA also granted a waiver based on the following: (1) tannic acid is naturally occurring with a long history of exposure with no adverse reactions reported; (2) tannic acid is approved for use in food by the FDA; (3) the physical and chemical properties of tannic acid (*e.g.,* the vapor pressure was too low to be reliably quantified for extract of *Caesalpinia spinosa* or tannic acid); (4) tannic acid is approved for inert ingredient (dispersing agent) use in pesticide products.

To address subchronic 90-day oral toxicity, data from a 90-day oral gavage study and a 4-week oral gavage study on rats with extract of *Caesalpinia spinosa* were conducted and found there were no adverse effects. The no-observed-effect-level (NOAEL) for both sexes was 3,500 mg/kg-bw/day and 3,000 mg/kg-bw/day, respectively, which were the highest doses tested in the studies. In addition, a 12-week dietary study on rats was provided using up to 800 mg/kg/day of tannic acid. In this study there were no significant changes in body weight, food intake, liver and kidney weights, gross pathology and histopathology observed.

For prenatal developmental and genetic toxicity, no maternal or developmental adverse treatment-related effects were observed. The NOAEL was greater than 3,500 mg/kg-bw/day, the highest dose level tested. In terms of mutagenicity, the active ingredient was determined to be non-mutagenic, and not genotoxic.

It is also relevant to the toxicological profile that ''tannin'' is approved for use as a direct human food additive as a boiler water additive under 21 CFR 173.310 and ''tannic acid'' is considered Generally Recognized as Safe (GRAS) when used as a flavoring agent, adjuvant, and pH control agent in baked goods, alcoholic beverages, beverage bases, gelatins, and frozen dairy desserts

per 21 CFR 184.1097. In terms of its use in pesticide formulations, tannin (including tannic acid) is exempt from the requirement of a tolerance as an inert ingredient in pesticide products when used as a dispersing agent applied to growing crops under 40 CFR 180.920. In addition to its widespread natural presence in foods, tannic acid is widely used in various cosmetic products such as soap, facial cleansers, masks, moisturizers, and serums. Further, tannic acid derived from plants is recognized as an animal feed additive for all species by the European Union of Feed Additives pursuant to Regulation EC No. 1831/2003.

A. Toxicological Points of Departure/ Levels of Concern

Based on the toxicological profile, EPA did not identify any toxicological endpoints of concern for assessing risk for this chemical.

B. Exposure Assessment

1. *Dietary exposure from food, feed uses, and drinking water.* Extract of *Caesalpinia spinosa* is a naturally occurring, tannin rich extract found in plants to which humans have been exposed through fruit, tea, coffee, feed grains, and vegetable consumption. As part of its qualitative risk assessment for extract of *Caesalpinia spinosa,* the Agency considered the potential for any additional dietary exposure to residues of extract of *Caesalpinia spinosa* from its proposed use as a nematicide on agricultural use sites. EPA concludes that such dietary (food and drinking water) exposures are likely to be negligible, as extract of *Caesalpinia spinosa* is readily biodegradable in the environment, potential residues of the substance are not anticipated on treated commodities at the time of consumption based on its physical chemical properties. Furthermore, residue data available for carrots and tomatoes show that when the proposed end-use product was applied according to labeled rates and methods, pesticide residues were indistinguishable from background levels. A quantitative dietary exposure assessment was not conducted because a toxicological endpoint for risk assessment was not identified.

2. *Residential exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure. There are no anticipated residential uses and significant residential exposure is not expected; therefore, residential handler and post-application risks of concern are not expected. Residential exposure may occur from non-pesticidal uses such as use in food commodities. However, inhalation exposure is not expected since tannins do not easily volatize because of their physical and chemical properties. A quantitative dietary exposure assessment was not conducted since a toxicological endpoint for risk assessment was not identified.

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 a tolerance exemption, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.'' Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, EPA has not made a common mechanism of toxicity finding as to extract of *Caesalpinia spinosa* and any other substances, and this biopesticide does not appear to produce a toxic metabolite produced by other substances. For the purposes of this action, EPA has not assumed that this active ingredient has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's website at *https://www.epa.gov/pesticides/cumulative.*

C. Safety Factor for Infants and Children

FFDCA section 408(b)(2)(C) provides that EPA shall retain an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the Food Quality Protection Act (FQPA) safety factor. In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor. An FQPA safety factor is not required at this time for extract of *Caesalpinia spinosa* because EPA is performing a qualitative dietary assessment based on negligible toxicological and exposure concerns.

D. Aggregate Risks

Based on the available data and information, the Agency has concluded that a qualitative aggregate risk assessment is appropriate to support this action, and that risks of concern are not anticipated from aggregate exposure to the extract of *Caesalpinia spinosa.* This conclusion is based on the low toxicity of the active ingredient, expected ready biodegradation in the environment, and existing natural levels present in foodstuffs. Anticipated dietary (food and drinking water) and bystander exposures are expected to be negligible, and there are no residential uses for the active ingredient. A full explanation of the data upon which EPA relied and its risk assessment based on those data can be found in the Memorandum entitled ''Product Chemistry Review and Human Health Risk Assessment for FIFRA Section 3 Registrations of the Manufacturing-Use Product, AgChem1, and the End-Use Product AgChem1–EP1, Containing extract of *Caesalpinia spinosa* (99.9%) as a New Active Ingredient''. This document, as well as other relevant information, is available in the docket for this action as described under **ADDRESSES**.

V. Determination of Safety for U.S. Population, Infants and Children

Based on the Agency's assessment, EPA concludes that there is reasonable certainty that no harm will result to the U.S. population, including infants and children, from aggregate exposure to residues of extract of *Caesalpinia spinosa.* Therefore, the establishment of an exemption from the requirement of a tolerance for residues of extract of *Caesalpinia spinosa* in or on all food commodities when used in accordance with good agricultural practices is safe under FFDCA section 408.

VI. 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.

VII. Conclusion

Therefore, an exemption from the requirement of a tolerance is established under 40 CFR part 180 for residues of extract of *Caesalpinia spinosa* in or on all food commodities when used in accordance with good agricultural practices.

VIII. Statutory and Executive Order Reviews

This action establishes an exemption from the requirement of a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and

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

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance exemption in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply. This action directly regulates growers, food processors, food handlers, and food retailers, not States or Tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or Tribal Governments, on the relationship between the National Government and the States or Tribal Governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian Tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

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

IX. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: December 21, 2022.

Edward Messina,

Director, Office of Pesticide Programs.

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

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

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

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

■ 2. Add § 180.1396 to subpart D to read as follows:

§ 180.1396 Extract of *Caesalpinia spinosa;* exemption from the requirement of a tolerance.

An exemption from the requirement of a tolerance is established for extract of *Caesalpinia spinosa* in or on all food commodities when used in accordance with good agricultural practices.

[FR Doc. 2023–00017 Filed 1–5–23; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Part 1302

RIN 0970–AC90

Mitigating the Spread of COVID–19 in Head Start Programs

AGENCY: Office of Head Start (OHS), Administration for Children and Families (ACF), Department of Health and Human Services (HHS).

ACTION: Final rule.

SUMMARY: This final rule removes the requirement for universal masking for all individuals ages 2 and older. This final rule requires that Head Start programs have an evidence-based COVID–19 mitigation policy, developed in consultation with their Health Services Advisory Committee. This final rule does not address the vaccination and testing requirement, which is still under review. The vaccine requirement remains in effect.

DATES: *Effective date:* This final rule is effective January 6, 2023.

Compliance date: The compliance date for the evidence-based COVID–19 mitigation policy specified at § 1302.47(b)(9) is, March 7, 2023. For more information, *see* Implementation Timeframe.

FOR FURTHER INFORMATION CONTACT: Kate Troy, OHS, at *HeadStart@eclkc.info* or 1–866–763–6481. Deaf and hearing-impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 between 8 a.m. and 7 p.m. Eastern Standard Time.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Executive Summary

(1) Purpose of the Regulatory Action

(a) *The need for the regulatory action and how the action will meet that need:* The purpose of this regulatory action is to finalize, with modification, the Interim Final Rule with Comment Period (IFC), *Vaccine and Mask Requirements to Mitigate the Spread of COVID–19 in Head Start Programs,* which ACF issued on November 30, 2021 (86 FR 68052). This final rule takes into consideration the more than 1,700 public comments received on masking during the comment period, the most up to date data available on COVID–19, and knowledge gained through research on the transmission and effects of SARS–CoV–2 to establish a policy that prioritizes the health and safety of children served by the federal Head Start program, their families, and the program's staff while also adapting to the realities of evolving COVID–19 conditions. In brief, this final rule:

(1) removes the requirement of universal masking for all individuals 2 years of age and older when they are with two or more individuals in a vehicle owned, leased, or arranged by the Head Start program; when they are indoors in a setting where Head Start services are provided; and, for those not fully vaccinated, outdoors in crowded settings or during activities that involve close contact with other people.

(2) requires Head Start programs to have an evidence-based COVID–19 mitigation policy developed in consultation with their Health Services Advisory Committee (HSAC).

During this rulemaking process alone, there have been considerable gains in what the scientific, medical, and public health communities know and understand about SARS–CoV–2. More tools are available to protect against SARS–CoV2 than when the IFC was issued, and the conditions around COVID–19 have changed. These new tools include improved accessibility to vaccines for adults and children over age 6 months, treatments, tests, and improved information about other tools like ventilation to maximize protection and minimize transmission. For these reasons, and those further outlined in the preamble, ACF has removed the specific universal masking requirement and replaced it with a requirement that programs establish an evidence based COVID–19 mitigation policy in consultation with their HSAC.

Throughout the development of the IFC and this final rule, ACF has considered the guidance of the U.S. Centers for Disease Control and Prevention (CDC) as our lead public health agency to ensure the latest science guides our policies. After consideration and review of the latest CDC guidance, ACF has concluded that the universal masking requirement established in the IFC no longer is warranted.

The IFC was published at a point in time when the CDC recommended universal masking for individuals 2 years and older. At that time, vaccines were not yet available for children between the ages of two and five. Additionally, citing CDC data, ACF noted that ''although COVID–19 cases had begun to decline in parts of the country,'' ''data indicate[d] cases are beginning to rise in other parts,'' and ''the future trajectory of the pandemic [was] unclear.'' 86 FR 68053. ACF also highlighted the acute risks of the highly transmissible Delta variant, which at the time was ''the predominant variant in the United States and ha[d] resulted in greater rates of cases and hospitalizations among children than from other variants.'' *Ibid.* At this stage of the COVID–19 response, CDC recommends universal masking based on COVID–19 Community Level.

This final rule instead requires Head Start programs to have an evidence-based COVID–19 mitigation policy developed in consultation with their HSAC. The HSAC is an advisory group usually composed of local health providers; they may include pediatricians, nurses, nurse practitioners, dentists, nutritionists, and mental health providers. Head Start staff and parents also serve on the HSAC. All Head Start and Early Head Start programs are required to establish and maintain a HSAC (45 CFR 1302.40(b)).

Removing the universal mask requirement and replacing it with the requirement of an evidence-based COVID–19 mitigation policy allows Head Start programs to adapt to changing circumstances, to consider the unique challenges and needs faced by individual programs, and still supports the safest environments for the workforce, and the children and families Head Start serves.

(b) *Legal authority for the final rule:* ACF publishes this final rule under the authority granted to the Secretary by sections 641A(a)(1)(C), (D) and (E) of the Head Start Act, 42 U.S.C. 9836a(a)(1)(C), (D) and (E), as amended by the Improving Head Start for School Readiness Act of 2007 (Pub. L. 110–134). Specifically, section 641A of the Head Start Act allows the Secretary to ''modify, as necessary, program performance standards by regulation applicable to Head Start agencies and programs.'' In developing this modification, the Secretary included relevant considerations pursuant to section 641A(a)(2) of the Head Start Act, 42 U.S.C. 9836a(a)(2). The Secretary finds it necessary and appropriate to set health and safety standards for Head Start programs to ensure they respond to the evolving COVID–19 pandemic to keep the environment where Head Start services are provided safe.

(2) Summary of the Major Provisions of the Regulatory Action

Head Start Program Performance Standards

Masking

This final rule removes the universal masking requirement for all individuals 2 years of age and older, which had applied universally subject to some exceptions.[1] While this final rule removes the universal masking requirement, programs may opt to include such requirements in their COVID–19 mitigation policy.

The universal masking requirement in the IFC mirrored CDC's recommendations in fall 2021 and was predicated on then-current data about COVID–19 and expectations about the future trajectory of the disease. The CDC has moved away from a recommendation for universal indoor masking in schools and early care and education facilities. On February 25, 2022, the CDC issued new COVID–19 mitigation recommendations to help individuals and communities make choices on what precautions to take, based on the level of disease burden in their community and the capacity of their nearby hospitals. CDC calls these ''COVID–19 Community Levels,'' which include low, medium, and high Community Level classifications. At present, CDC only recommends universal masking indoors at the high COVID–19 Community Level. As a result, Head Start programs may be operating with a more stringent masking requirement than the CDC indicates is warranted currently, and specifically, a requirement that reflects a different stage of the COVID–19 response when the CDC recommended universal masking for individuals ages 2 and older.

To clarify, programs may still promote, encourage, and even require universal masking as part of their COVID–19 evidence-based policy given the proven benefits of masking as an effective layered mitigation strategy against COVID–19, particularly when communities are experiencing a high level of disease burden or are serving high-risk populations (*e.g.,* when COVID–19 Community Levels are high).[2] The effectiveness of masking is discussed further in Section III and programs may find the responses helpful when developing their COVID–19 mitigation policies.

The removal of the universal masking requirement and replacement with the evidence-based COVID–19 mitigation policy gives Head Start programs more flexibility to adapt to the changing circumstances of COVID–19 while still protecting the health of children and consequently will reduce burden on programs.

Evidence-Based COVID–19 Mitigation Strategy

This final rule requires Head Start programs to have an evidence-based COVID–19 mitigation policy developed in consultation with the program's HSAC. This modification allows the rule to continue to be relevant and up to date as the level of COVID–19 impact in communities changes.

The evidence-based COVID–19 mitigation policy should consider multiple mitigation strategies such as access to vaccination, masking, ventilation, and testing. Per the CDC, Head Start programs should consider local conditions, including transmission levels as well as program characteristics such as the population of children and families served, when selecting mitigation strategies to prioritize for implementation.

Although the national vaccination requirement remains in place while the vaccination portion of the IFC is under review, Head Start programs may include additional considerations beyond the original IFC requirement to support vaccination efforts, including for example, requiring staff remain up to date on COVID–19 boosters, sharing information on COVID–19 vaccination with staff and families, and/or partnering with local agencies to increase vaccination access.

OHS will issue supplementary information at the time of publication of this rule to Head Start programs to provide information that may assist programs in developing an evidence-based policy. Specifically, this supplementary information will reference the latest research and science on layered mitigation strategies, including information from the CDC guidance for Early Childhood Education settings, CDC COVID–19 Community Levels guidance, and state and local guidance. OHS will update this guidance as appropriate.

This final rule requires programs to have established an evidence-based COVID–19 mitigation policy in consultation with their HSAC by March 7, 2023.

(3) Costs and Benefits

This final rule revises requirements established on November 30, 2021, through an Interim Final Rule with Comment (IFC), ''Vaccine and Mask Requirements To Mitigate the Spread of COVID–19 in Head Start Programs.'' [3] In our main analysis, we evaluate the likely impacts of the final rule in comparison to a baseline scenario of the IFC without modifications.

The final rule requires that Head Start programs have an evidence-based COVID–19 mitigation policy, developed in consultation with their HSAC. This requirement will result in a one-time cost for each program to develop its mitigation policy. Although the final rule is not prescriptive with respect to the elements of these mitigation policies, we identify and estimate ongoing costs to Head Start programs by modeling elements of a mitigation policy that are intended to be representative of a range of potential options.

This final rule also removes the requirement for universal masking for all individuals two years of age and older. While some programs may maintain masking for certain groups or under certain circumstances, removing this requirement will likely result in fewer masks worn. All else equal, if fewer masks are worn as a result of the rule, this may result in increased transmission risk of SARS–CoV–2; however, this could be offset by other elements of evidence based COVID–19 mitigation policies developed by Head Start programs.

Overall, we anticipate that the cost savings associated with removing the universal masking requirement will exceed the incremental costs of the mitigation policies. Thus, the final rule will result in net cost savings, which accrue primarily to Head Start programs. Over a 3-month time horizon, we estimate that the final rule may result in about $9.2 million in net benefits; in other words, this amount is our estimate of the net cost savings attributable to the final rule.

II. Background

Since its inception in 1965, Head Start has been a leader in supporting children from low-income families in reaching kindergarten healthy and ready to thrive in school and life. The program was founded on research showing that health and wellbeing are pre-requisites to maximum learning and improved short- and long-term outcomes. In fact, OHS identifies health as the foundation of school readiness.

The Head Start Program Performance Standards (HSPPS) require programs to comply with state immunization enrollment and attendance requirements and to work with families to ensure children who are behind on immunizations or other care get on a schedule to catch up (45 CFR 1302.15(e) and1302.42(b)(1)). Additionally, education, family service, nutrition, and health staff help children learn healthy habits, monitor each child's growth and development, and help parents access needed health care.

All Head Start and Early Head Start programs are required to establish and maintain a HSAC (45 CFR 1302.40(b)). The HSAC is an advisory group usually composed of local health providers; they may include pediatricians, nurses, nurse practitioners, dentists, nutritionists, and mental health providers, among others. Head Start staff and parents also serve on the HSAC. As HSACs are usually comprised of local health care providers, they provide an existing framework that supports Head Start programs in accessing and leveraging expertise to promote child health. The HSPPS specifically requires the HSAC to provide expertise in determining whether children are up to date on age-appropriate preventive and primary medical and oral health care; support the program in identifying children's nutritional health needs; and consult on appropriate screenings for communicable diseases for regular volunteers in cases where there is an absence of state, tribal or local laws.

It is vitally important that the Head Start program itself is safe for all children, families, and staff. For this reason, the HSPPS specify that the program must ensure Head Start staff do not pose a significant risk of communicable disease (45 CFR 1302.93(a)). Ensuring that children and families can benefit from program services as safely as possible is ACF's highest priority. While this is always important, COVID–19 has highlighted the need to ensure staff and young children are also protected.

ACF published an IFC in the **Federal Register** on November 30, 2021 (86 FR 68052). ACF issued the IFC on the basis of its authority in Section 641A of the Head Start Act, which allows the Secretary to ''modify, as necessary, program performance standards by regulation applicable to Head Start agencies and programs,'' including ''administrative and financial management standards,'' ''standards relating to the condition and location of facilities (including indoor air quality assessment standards, where appropriate) for such agencies, and programs,'' and ''such other standards as the Secretary finds to be appropriate,'' 42 U.S.C. 9836a(a)(1)(C)), (D), and (E). In developing these modifications, the Secretary included relevant considerations pursuant to section 641A(a)(2) of the Head Start Act, 42 U.S.C. 9836a(a)(2).[4] The Secretary consulted with experts in child health, including pediatricians, a pediatric infectious disease specialist, and the recommendations of the CDC and the U.S. Food and Drug Administration (FDA).[5] [6] [7] [8] The Secretary considered OHS's past experience with the longstanding health and safety requirements of the HSPPS that have sought to protect Head Start staff and participants from communicable and contagious diseases. The Secretary also considered the circumstances and challenges typically facing children and families served by Head Start agencies. Challenges considered included the

disproportionate effect of COVID–19 on low-income communities served by Head Start agencies and the potential for devastating consequences for children and families of program closures and service interruptions due to SARS–CoV–2 exposures. Based on all these factors, the Secretary found it necessary and appropriate to set health and safety standards for the condition of Head Start facilities that address the transmission of the SARS–CoV–2 and avoid severe illness, hospitalization, and death among program participants.

As of January 1, 2022,[9] [10] following decisions by the United States District Courts for the Northern District of Texas and the Western District of Louisiana, implementation and enforcement of the IFC was enjoined in the following 25 States: Alabama, Alaska, Arizona, Arkansas, Florida, Georgia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nebraska, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, West Virginia, and Wyoming. Head Start, Early Head Start, and Early Head Start-Child Care Partnership grant recipients in those 25 states were not required to comply with the IFC pending future developments in the litigation. The IFC remained in effect in all other states, the District of Columbia, and U.S. territories. In this final rule, discussion of the states not implementing the requirement relative to states that are implementing the requirements is in reference to these injunctions.

As of the date of publication of the IFC, children under the age of 5 were not eligible for the COVID–19 vaccine. On June 17, 2022, the FDA authorized the emergency use of the Moderna and Pfizer-BioNTech COVID–19 vaccines to include children 6 months through 5 years of age. Due to the extension of this mitigation strategy to this age cohort, Head Start children who are vaccinated are now less vulnerable to the effects of COVID–19. COVID–19 vaccines continue to provide crucial protections against severe disease, hospitalization, and death in children and adolescents.

The IFC generated many comments. We analyze and discuss those comments in Part IV, Public Comments Analysis.

III. Overview of Public Comments on the Interim Final Rule With Comment Period

The comment period for the IFC was open for 30 days and closed on December 30, 2021. OHS received more than 1,700 comments that expressed concerns with masking generally, and most of those comments focused on masking children. As noted, this final rule does not address the vaccination or testing requirements in the IFC and, therefore, does not include a summary of the comments that pertain to that requirement.

Most comments came from individuals, including Head Start directors, other Head Start staff members, Members of Congress, and parents. A smaller subset of comments came from associations on behalf of their membership.

The comments expressing concerns with masking, and particularly the masking policy for children, include, but are not limited to, concerns regarding the physical health of children, the potential impact on their social-emotional and speech development, the safety and efficacy of masks, and the violation of parental rights. Other areas of concern included: difficulties sustaining partnerships, mostly related to conflicting requirements with school districts; the requirements being a violation of individual rights and an overreach of the federal government; and the sentiment that a national versus local approach to COVID–19 results in what commenters often referred to as a ''one-size-fits-all'' approach. Other comments cited disagreement with the mask requirement due to factually inaccurate information, such as the masking of children leading to carbon dioxide poisoning. A small minority of the submissions expressed support for the IFC. Supportive commenters commended ACF for its efforts to ensure the safety of Head Start children, families, and staff, noted that the mandate made them feel safer about Head Start services and viewed the requirements as a prioritization of the needs of children and staff, using evidence-based practices. Many of the supportive commenters acknowledged the challenges associated with the mask requirement but agreed that the dynamic nature of SARS–CoV–2 warranted this requirement.

IV. Public Comments Analysis

We respond to the comments we received on masking in response to the IFC in this section-by-section discussion. We also address public comments in more detail in Section V where we discuss how we have made changes to the IFC. Before discussing the requirements in the final rule, we respond to the general comments we received in response to the IFC related to the burden of the masking requirement, challenges around full enrollment, the implementation timeline, and the lack of a termination date of the masking requirement. Many comments we received reiterated the same or similar information that fell into these broad categories, and we believe it is clearer for us to respond to similarly grouped comments in this way.

Burden of Requirements

Comment: Commenters shared concerns that it is too burdensome to implement and enforce the new policies and procedures related to the mask requirement given the day-to-day complexities that come with navigating the ongoing pandemic. A majority of commenters raised concerns about the increased burden and stress imposed on staff and families due to the mask mandate.

Response: ACF is aware that programs have universally experienced increased burden related to operating amidst SARS–CoV–2 transmission. The masking requirement outlined in the IFC necessitated additional effort to implement, and these efforts were warranted at an earlier time to address COVID–19, given the age of children served and the disproportionate impact of the pandemic on children and staff in Head Start programs. Thus, while the requirement required increased effort, it was a critical part of a layered mitigation strategy to provide the maximum possible protection against COVID–19 infection to Head Start children, staff, and families.

Head Start programs implementing this requirement were able to do so successfully while continuing to operate their programs. That said, the requirement in this final rule of a COVID–19 mitigation policy gives Head Start programs more flexibility to adapt to the changing circumstances of COVID–19 and to benefit from prevailing public health recommendations concerning the most effective COVID–19 mitigation strategies while still protecting the health of children and being responsive to the needs of their communities.

Challenges to Enrollment

Comment: Comments highlighted that many programs are already struggling to meet full enrollment and suggested that the mask requirement is further hindering their efforts to enroll families, especially when the requirement contradicts local school district policies. Commenters discussed the consequence of families removing their children from the program due to the mask requirement because they disagree with the requirement, believed it should be the decision of parents, or are concerned about inappropriate developmental consequences.

Response: ACF recognizes that enrollment has been challenging for some Head Start programs, particularly as they work to reach more families and be fully enrolled. However, ACF has no evidence that the mask requirement specifically hindered enrollment efforts nationally. OHS center status data suggests that enrollment of children increased in the months following the publication of the IFC, and the ability to provide children with in-person services remained steady after the issuance of the IFC. In the 4 months after the rule was implemented (February 2022–May 2022 [11]), programs reported a percent change increase of 7 percent in the total average actual enrollment, as compared to the 4 months leading up to effective date of the final rule (September–December 2021). Additionally, in the 4 months leading up to the effective date of the IFC, programs reported an average of 91.25 percent of enrolled children who received full in-person services. Again 4 months after the rule was implemented, programs reported an average of 92.6 percent of enrolled children were receiving full in-person services. Notably, in May 2022, the data show our highest percentage of reported enrolled children receiving full in-person services since the start of the pandemic (93.4 percent). If we examine the 25 states not implementing the requirements, as compared to the states and territories that were implementing the requirements, both groups increased their reported percentage of children served fully in-person after publication of the IFC. From November 2021 to March 2022, both groups of states increased their reported percentage of children served fully in-person by 2 percent.

In sum, the data does not show an indication that the requirement hindered programs' ability to operate in-person services.[12] While center status data has limitations and cannot be used to prove causation from any provisions in the IFC, based on the data available, OHS has not seen significant impact on slot-level operating status at the regional or national level. OHS has not seen a decrease in actual enrollment levels in the months following the publication of the IFC. Despite many commenters' speculation that these requirements would result in families removing their children from Head Start programs on a large scale, and ultimately, leading to extensive classroom closures, there has been no indication that these predictions occurred.

While some individual families may have removed their children from Head Start, we have not seen a large-scale exodus from Head Start programs.

Compared to the provisions in the IFC, ACF anticipates the shift to an evidence based COVID–19 mitigation policy will result in families being less inclined to disenroll their children.

Implementation Timeline

Comment: Commenters reported various concerns broadly related to the timeline for the implementation of this requirement. Commenters raised concerns about the immediate effective date of the masking requirement, stating they did not have enough notice to properly inform their staff and families and set up policies and procedures. Commenters also raised concerns about the IFC's publication relative to the pandemic. Comments included doubt that a required mitigation strategy for masking is necessary and effective if it was put into place almost two years into the pandemic.

Response: ACF understands that the effective date for the masking requirement was challenging. We value this input and have taken these comments into consideration in the development of the implementation timeline for this final rule. IFCs, or provisions within IFCs, are used when an agency has good cause to issue a final rule without first publishing a proposed rule. ACF issued an IFC to protect Head Start staff, children, and families in response to alarming trends in the data and inadequate vaccination coverage. The lengthier process associated with a notice of proposed rulemaking (NPRM) process would have impeded ACF's ability to put the necessary mitigation strategies in place to create the safest possible environment for staff, children, and families based on the information available at the time. The Secretary found it necessary and appropriate to set health and safety standards for the condition of Head Start facilities to ensure the reduction in transmission of the SARS–CoV–2, based on the science at the time, and to avoid severe illness, hospitalization, and death among program participants.

In this final rule, in consideration of public comment concerns relative to the implementation timeline, the requirement to have established an evidence-based COVID–19 mitigation policy in consultation with their HSAC is effective 60 days following publication of the final rule, March 7, 2023. This compliance date will allow programs to develop and implement the required policy.

Indefinite Requirements

Comment: Commenters raised concerns with the lack of the termination date for the universal mask requirement. ACF invited comment on the decision to leave an undetermined end date or set a finite end date, such as 6 months from the effective date of the rule. Programs reported concerns that the indefinite nature of the requirement impedes their ability to update their internal policies, inform staff of expectations, update parents and families, budget for next year and outline expectations for prospective staff and families.

Response: ACF's final rule addresses these concerns in two respects:

(1) ACF has removed the universal masking requirement in this final rule, which means that all individuals ages 2 and older no longer need to wear a mask indoors, when there are two or more individuals on transportation, and, if unvaccinated, when outside in crowded spaces and during activities that involve sustained close contact with others, unless their program opts to include such requirements under its COVID mitigation policy.

(2) ACF is now requiring Head Start programs to have an evidence-based COVID–19 mitigation policy developed in consultation with the HSAC. ACF believes this change will address concerns with the lack of a termination date that existed in the IFC for the universal masking requirement. A fuller discussion of this change is included in Section VI.

Comments About Section 1302.47(b)(5)(vi) Masking

The majority of commenters expressed concerns regarding the universal mask requirement for children 2 years of age and older in Head Start programs. There were several topics raised within this broader area of concern.

Comment: Some commenters raised the concern that having staff masked might be particularly difficult for young children who lip-read. There was also concern that staff will have difficulty hearing children who are masked. More prevalent, many commenters raised concerns regarding the potential for children to experience delays due to mask use, including social and emotional delays and developmental delays. Specifically, commenters expressed concern that the prolonged use of masks among young children would result in social and emotional delays due to the lack of facial recognition of emotional cues. Other commenters feared masks may hinder

children's acquisition of speech and language and consequently children will experience developmental delays.

Response: While studies show masks may reduce decibels, attenuate frequencies, and remove visual cues which is a risk for young children who are developing speech, language, and pre-reading/reading skills, no serious adverse events have been reported.[13] [14] Guidance from the American Academy of Pediatrics notes that teachers and staff may need to use clear paneled masks to adequately serve students who are deaf or hard of hearing, students receiving speech/language services, young students in early education programs, and English language learners.[15] Further, staff use of clear paneled masks when communicating with students who are deaf or hard of hearing may also be required by federal disability rights laws, which mandate that such students have equal opportunity to participate in the program.

With respect to the more prevalent concern about social-emotional or developmental delays due to mask use, although there have been numerous opinion pieces, there are few scientific studies published on the risk/benefit of adults wearing masks on young children's social-emotional and language development. While some of the comments will not be applicable to the final rule, given the revised requirements, programs may find the responses helpful as they consider the appropriateness of various alternatives to the universal masking requirement for their COVID–19 mitigation policies.

ACF identified relevant studies, and in sum, there is not sufficient evidence of an impact on social-emotional development when adults are wearing masks.[16] [17] [18] [19] [20]

There is only one study that suggests that wearing a mask impairs children's ability to read emotions, but there are more studies, as noted above, that show no impact. There are no published studies on the long-term effects of young children's development when adults wear masks. The CDC currently recommends universal mask use when the COVID–19 Community Level [21] is high and ACF recommends that Head Start programs develop a policy on masking that aligns with state, local, and national public health guidance.

Comment: Many of the same commenters were worried about the safety of children wearing masks and their efficacy in mitigating the spread of COVID–19, some of whom cited conflicting guidance on mask use among young children in World Health Organization (WHO) and United Nations International Children's Emergency Fund (UNICEF) reports. Commenters reported concerns that face masks can reduce oxygen intake, leading to carbon dioxide poisoning from re-breathing the air we normally breathe out. Some commenters were concerned specifically about the impact of mask wearing for children with special health care needs. Other concerns included: that masks quickly become unhygienic with young children and themselves spread germs, that wearing a face mask weakens one's immune system, or that mask use increases one's chances of getting sick if exposed to the COVID–19 virus.

Response: To be clear, there has been no evidence to substantiate the claim that mask use leads to reduced oxygen intake or carbon dioxide poisoning, weakens one's immune system, or increases one's chances of getting sick. The CDC Science Brief: *Community Use of Masks to Control the Spread of SARS–CoV–2* (last updated December 2021 at the time of this publication) provides clear information on SARS–CoV–2 transmission and the efficacy of masks. SARS–CoV–2 infection is transmitted predominantly by inhalation of respiratory droplets generated when people cough, sneeze, sing, talk, or breathe. Well-fitting masks are primarily intended to reduce the emission of virus-laden droplets by the wearer (''source control''), which is especially relevant for asymptomatic or pre-symptomatic infected wearers who feel well and may be unaware of their infectiousness to others.[22] [23] Studies demonstrate that wearing well-fitting masks also provides protection to the wearer by reducing wearers' exposure to infectious droplets through filtration, including filtration of fine droplets and particles less than 10 microns.[24] Improving fit and filtration—for example, through strategies such as using mask fitters or layering a cloth mask over a medical procedure mask—can improve wearer protection. The community benefit of wearing well-fitting masks for SARS–CoV–2 control is due to the combination of source control and filtration protection for the wearer; the individual prevention benefit of wearing masks increases with increasing numbers of people using masks consistently and correctly in a given setting.[25]

With respect to the safety of children wearing masks and their efficacy in mitigating the spread of COVID–19, ACF points to several studies. First, in terms of safety, there is no evidence to suggest that wearing a mask makes it harder for individuals to breathe, impacts their lung development, or traps carbon dioxide.[26] [27] [28]

Second, in terms of the efficacy of children wearing masks as a mitigation strategy, there have been a few studies about mask use in K–12 settings since 2020, as well as one study conducted in early childhood settings. In sum, the available research suggests that the required use of masks for children in schools and early childhood education settings results in lower incidence of SARS–CoV–2 transmission and fewer school closures.[29] [30] [31] [32]

Additionally, commenters have cited a joint UNICEF and WHO report [33] that recommended children aged up to 5 years should not wear masks as a general preventive strategy. This recommendation conflicts with the most current CDC guidance and ACF is choosing to rely on the lead U.S. public health agency over other organizations. The report also acknowledges that evidence is limited around the use of masks in children for COVID–19 and countries may ultimately choose to recommend a lower age cut-off for mask use. Having access to the same data, countries have come to different conclusions on the benefits and harms of children wearing masks, with the U.S. and Canada recommending masking for children ages 2 and up.

Additionally, ACF acknowledges that commenters had valid concerns regarding the hygienics of masking children and agree that children may need extra masks should theirs become soiled. ACF encourages programs to consider the use of COVID–19 response funds and ongoing operational funds to purchase extra masks for children in response to this concern.

In sum, consistent with the CDC recommendations and available research, masking children is an appropriate policy option and is recommended as one layered mitigation strategy against COVID–19 when local conditions necessitate. Despite commenters' concerns, ACF has not received reports following the publication of the IFC indicating that masks caused Head Start children significant health and safety consequences.

Comment: Parents and stakeholders reported concern that the mask requirement for children does not respect parental choice. They expressed an overarching concern that the universal mask requirement for young children is contrary to the belief that parents know what is best for their child—a pillar of the philosophy of Head Start. Comments suggested that some parents have elected to remove

their child from Head Start because of this requirement.

Response Much like the HSPPS requirement that children remain up to date on age-appropriate immunizations, there are public health issues that warrant prioritizing the health of the broader Head Start community—particularly as early childhood education occurs in congregate settings—and ACF believes the mask requirement is one such example. However, the CDC's recommendations have changed as the circumstances of COVID–19 have evolved and the local context and disease burden in the local community are key considerations for the use of masks and other mitigation strategies, ACF's final rule reflects this change.

Comment: There was also a concern among commenters that the requirement for children to mask outdoors is unnecessary, especially in rural areas and/or settings where playgrounds are often used just by one classroom. Commenters were also concerned that masks are too difficult for young children to wear, and staff will have a challenging time continuously reminding children to wear them correctly. Commenters expressed concern that the time spent reminding children to wear masks would ultimately come at the expense of teaching and supporting children in other ways.

Response: ACF has modified the requirement in response to the evolving circumstances of COVID–19 and to points raised during the public comment period. We discuss the changes to this requirement fully in Section V, but in summary, the requirement that Head Start programs have an evidence-based COVID–19 mitigation policy supports programs in scaling up or down mask use in response to the prevalence of COVID–19 epidemiology in their community and determining, in consultation with the program's HSAC, what circumstances necessitate mask use.

We think this change will, in part, address concerns related to outdoor masking, as programs will have the ability to create their own individual evidence-based COVID–19 mitigation policy, including with respect to outdoor masking.

Comment: Many comments raised the issue of workforce attrition and loss of volunteers due to unwillingness to comply with the masking requirements. Commenters explained that the impact of staff attrition in the classroom will lead to classroom closure and the loss of services to children and families. Commenters reported that this requirement imposes yet another barrier to already difficult hiring conditions and exacerbates staff shortages. They also noted that this requirement will ultimately lead potential staff to choose to work at other local child care centers that do not have such COVID-related requirements.

Response: ACF acknowledges programs are facing unprecedented challenges recruiting and retaining qualified staff that existed before the onset of the pandemic. We also acknowledge that some commenters were concerned that the mask requirement in the IFC may exacerbate these challenges. At the same time, it is difficult to determine what share of recruitment and retainment challenges are attributable to this requirement as compared to other causes. ACF is aware that compensation has significantly affected the early childhood workforce shortage and is the number one reason for Head Start staff attrition. Research with the broader early care and education (ECE) field indicates higher compensation for ECE professionals can improve employment stability and reduce turnover (and vice versa, with lower wages linked to higher turnover).'' [34]

Additionally, while there are workforce challenges nationally that exist both in those states implementing the requirements and in those that are not, we have no evidence that the workforce challenges among Head Start programs are more pervasive in those states implementing the mask requirement.

As noted in the Background of this final rule in Section II, Head Start regulations have always prioritized the health and safety of the children and families we enroll. At the time of the IFC's publication the evidence of the efficacy of the use of masks in reducing transmission of SARS–CoV–2 was substantial. Masks are effective at reducing transmission of SARS–CoV–2, the virus that causes COVID–19, when worn consistently and correctly. ACF affirms in this final rule the importance of mask use as a key mitigation strategy and believes requiring programs to have an evidence-based COVID–19 policy that includes mask use in appropriate circumstances will support the safest environment possible for Head Start staff, children, and families.

OHS continues to support Head Start programs and provide training and technical assistance as programs navigate this workforce shortage.

V. Implementation Timeframe

For adoption of the COVID–19 mitigation policy, the compliance date is March 7, 2023, 60 days following the publication of the final rule. This means that Head Start programs must have established an evidence-based COVID–19 mitigation policy developed in consultation with their HSAC 60 days after the publication of the final rule. This requirement applies to all Head Start grant recipients, including those that have been under a court injunction and not subject to the vaccination and masking requirements in the IFC issued on November 30, 2021. The removal of the universal masking requirement occurs immediately upon publication.

VI. Section-by-Section Discussion of Changes in This Final Rule

In this section, we discuss two changes made in this final rule. The two changes include:

(1) removing the requirement of universal masking for all individuals 2 years of age and older when there are two or more individuals in a vehicle owned, leased, or arranged by the Head Start program; when they are indoors in a setting where Head Start services are provided; and, for those not fully vaccinated, outdoors in crowded settings or during activities that involve close contact with other people.

(2) requiring Head Start programs to have an evidence-based COVID–19 mitigation policy developed in consultation with their HSAC.

The modifications are based on current public health data and best practices, input from numerous stakeholders, and the continually evolving landscape of COVID–19 conditions. We specifically relied on the guidance from and consultation with the country's leading public health agency, the CDC. Additionally, ACF received letters from state and national Head Start associations, outlining their feedback and perspectives on the implications on these requirements. We also received input from the grant recipient community, some of whom contributed their feedback as part of the nearly 2,700 comments we received during the public comment period. OHS also hosted two webinars following the publication of the IFC, which provided another opportunity for grant recipients to provide input and raise questions from their respective vantage points as executive directors, program directors, fiscal officers, staff members, and parents. Finally, OHS regularly consulted experts internal to OHS, ACF, HHS, and OHS's National Center advisers, all of whom bring expertise in diverse areas of program operations, including administrative and fiscal, health and safety, infectious disease management, and child development.

As such, the Secretary satisfied the relevant considerations pursuant to section 641A(a)(2)(A) of the Head Start Act, 42 U.S.C. 9836a(a)(2)(A). We believe the changes we make below ensure these sections are clear, updated, streamlined, and transparent to the public.

1. Masking Requirement

The masking requirement in the IFC mirrored the CDC's recommendations issued in the fall of 2021 that all individuals ages 2 and older wear a mask indoors, wear a mask when there are two or more individuals on transportation, and, if unvaccinated, wear a mask when outside in crowded spaces and during activities that involve sustained close contact with others. In this final rule, ACF is removing the masking requirement and requiring Head Start programs to have an evidence-based COVID–19 mitigation policy developed in consultation with their HSAC.

The rationale for this change is twofold. First, the CDC's guidance, and the science and data that established the basis for that guidance, has changed as the conditions surrounding COVID–19 have evolved. The IFC was published at a point in time when the CDC recommended universal masking for individuals 2 years and older. At that time, citing CDC data, ACF noted that ''although COVID–19 cases had begun to decline in parts of the country,'' ''data indicate[d] cases are beginning to rise in other parts,'' and ''the future trajectory of the pandemic [was] unclear.'' 86 FR 68053. ACF also highlighted the acute risks of the highly transmissible Delta variant, which at the time was ''the predominant variant in the United States and ha[d] resulted in greater rates of cases and hospitalizations among children than from other variants.'' *Ibid.* At this stage of COVID–19 response, the science and data point to an approach that takes into account the impact of COVID–19 in the community, as demonstrated by the CDC's COVID–19 Community Levels. On February 25, 2022, the CDC issued these new recommendations to help individuals and communities make choices on what precautions to take, based on the level of disease burden in their community. As a result, Head Start programs may be operating with a more stringent masking requirement than the CDC indicates is warranted currently, and specifically a requirement that reflects a different stage of the response to COVID–19 when the CDC recommended universal masking for individuals ages 2 and older.

Second, the public comments on the IFC emphasized that the masking requirement prescribed a ''one-size-fits-all'' approach and did not consider the variation in locations and local conditions. Many cited low transmission rates within their communities, mainly in rural parts of the country that are particularly struggling with other issues which were only compounded by the circumstances of COVID–19. The shift away from universal masking for individuals 2 years and older allows programs to adapt more quickly to changing circumstances. The focus on a COVID–19 mitigation policy, is consistent with the comments and more reflective of the CDC's emphasis on layered prevention strategies—like staying up to date on vaccines, staying home when sick, ventilation, wearing masks, and hand washing—all of which have a key role in minimizing the spread of COVID–19.

As mentioned, throughout the development of the IFC and the final rule, ACF has leaned on the CDC as our lead public health agency to guide our policies. The CDC's new recommendations shift their focus to mask use depending upon the COVID–19 Community Levels. For that reason, and those further outlined in the preamble, ACF has removed the universal masking requirement.

2. Evidence-Based COVID–19 Mitigation Policy Requirement

In place of the universal masking requirement, ACF is requiring Head Start programs to have an evidence-based COVID–19 mitigation policy developed in consultation with their HSAC. Evidence-based is an umbrella term that refers to using the best research evidence (*e.g.,* found in health sciences literature) and clinical expertise (*e.g.,* what health care providers know) in content development.[35] Integrating the best available science with the knowledge and considered judgements from stakeholders and experts benefits Head Start children, families, and staff. [36] In the context of COVID–19, mitigation refers to measures taken to reduce or lower SARS–CoV–2 transmission, infection, or disease severity. Other terms used for this same concept are ''risk reduction strategies'' or ''prevention strategies.''

The evidence-based COVID–19 mitigation policy should consider multiple mitigation strategies such as vaccination, masking, ventilation, and testing. Note, the national vaccination requirement remains in place while under review for those Head Start programs in states that are not subject to the court injunctions. However, Head Start programs may include additional considerations beyond the original IFC requirement in their approach to vaccination as part of their COVID–19 mitigation policy, including for example, requiring staff remain up to date on COVID–19 boosters, sharing information on COVID–19 vaccination with staff and families, and/or partnering with local agencies to increase vaccination uptake. Where appropriate, policies should acknowledge that staff may request reasonable accommodations based on Federal law because of a disability, medical condition, or sincerely-held religious belief, practice, or observance regarding elements of the mitigation policy. When developing an COVID–19 mitigation policy Head Start programs should consider the risk factors for their staff and the families served, the available strategies, or combination of strategies, to be used when the impact of COVID–19 changes in the community (such as testing, improving indoor air quality, staying home when sick, etc.);.); and how the risk of exposure could change depending on the Head Start services provided. Head Start programs may also want to consider additional precautions regardless of the prevalence of impact from COVID–19 at that time. As noted in the CDC's guidance to K–12 schools and ECE settings, ECE program administrators should work with local health officials to consider other local conditions and factors when deciding to implement prevention measures. For example, ECE-specific indicators—such as vaccination rates among children, pediatric-specific healthcare capacity, pediatric hospitalizations, and pediatric emergency visits—can help with decision-making. Head Start programs may consider the extent to which children or staff are at increased risk for severe disease from COVID–19 or have family members at increased risk for severe disease. ECE programs may choose to implement universal indoor mask use to meet the needs of the families they serve, which could include people at risk for getting very sick with COVID–19.[37]

Note that the universal masking requirement was included at § 1302.47(b)(5)(vi) in the IFC. The requirement that Head Start programs have a COVID–19 mitigation policy is included in this final rule at § 1302.47(b)(9).

3. Severability

To the extent a court may stay or enjoin any part of this final rule or the IFC, ACF intends that other provisions

or parts of provisions of this final rule and the IFC should remain in effect. In particular, ACF intends this final rule to take effect notwithstanding any stay or injunction of the separate vaccine requirement imposed by the IFC, which remains under agency review, and vice versa. Any provision held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, shall be construed so as to continue to give maximum effect to the provision permitted by law, unless such holding shall be one of utter invalidity or unenforceability, in which event the provision shall be severable and shall not affect the remainder thereof or the application of the provision to other persons or circumstances.

VII. Regulatory Process Matters

Treasury and General Government Appropriations Act of 1999

Section 654 of the Treasury and General Government Appropriations Act of 1999 requires federal agencies to determine whether a policy or regulation may negatively affect family well-being. If the agency determines a policy or regulation negatively affects family well-being, then the agency must prepare an impact assessment addressing seven criteria specified in the law. ACF believes it is not necessary to prepare a family policymaking assessment, *see* Public Law 105–277, because the action it takes in this final rule will not have any impact on the autonomy or integrity of the family as an institution.

Federalism Assessment Executive Order 13132

Executive Order 13132 requires federal agencies to consult with state and local government officials if they develop regulatory policies with federalism implications. Federalism is rooted in the belief that issues that are not national in scope or significance are most appropriately addressed by the level of government close to the people. This rule will not have substantial direct impact on the states, on the relationship between the federal government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this action does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Congressional Review Act

Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (also known as the Congressional Review Act or CRA) allows Congress to review ''major'' rules issued by federal agencies before the rules take effect, *see* 5 U.S.C. 801(a). The CRA defines a major rule as one that has resulted, or is likely to result, in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, or innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets, see 5 U.S.C. 804(2). Based on our estimates of the impact of this rule, the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB) has designated this rule as ''not major'' under the CRA.

Paperwork Reduction Act of 1995

The Paperwork Reduction Act (PRA) of 1995, 44 U.S.C. 3501 *et seq.,* minimizes government-imposed burden on the public. In keeping with the notion that government information is a valuable asset, it also is intended to improve the practical utility, quality, and clarity of information collected, maintained, and disclosed.

The PRA requires that agencies obtain OMB approval, which includes issuing an OMB number and expiration date, before requesting most types of information from the public. Regulations at 5 CFR part 1320 implemented the provisions of the PRA and § 1320.3 of this part defines a ''collection of information,'' ''information,'' and ''burden.'' PRA defines ''information'' as any statement or estimate of fact or opinion, regardless of form or format, whether numerical, graphic, or narrative form, and whether oral or maintained on paper, electronic, or other media (5 CFR 1320.3(h)). This includes requests for information to be sent to the government, such as forms, written reports and surveys, recordkeeping requirements, and third-party or public disclosures (5 CFR 1320.3(c)). ''Burden'' means the total time, effort, or financial resources expended by persons to collect, maintain, or disclose information.

The IFC established new recordkeeping requirements and as required under the PRA, ACF submitted a request for approval of these recordkeeping requirements. The initial request was approved through an emergency clearance process, allowing for 6 months of approval under the PRA. This was followed by a full request, including two public comment periods, to extend approval of the recordkeeping requirements without changes. The OMB Control Number for this information collection request (ICR) is 0970–0583.

Under this final rule, Head Start grant recipients are required to update their program policies and procedures to include an evidence-based COVID–19 mitigation policy developed in consultation with their Health Services Advisory Committee. ACF will request a revision to OMB number 0970–0583 to add this recordkeeping requirement through an emergency clearance process. This will allow for 6 months of approval under the PRA to support the requirement going into effect 60 days following the publication of this rule. We will follow the initial emergency approval with a full request to extend approval of the recordkeeping requirement. The full request will include two public comment periods inviting comments on this new recordkeeping requirement and related burden. These public comment periods will be announced through separate notices published in the **Federal Register**. The first notice will invite comments within 60-days of publication and is expected to publish soon after the publication of this final rule. The second notice will publish when ACF submits the full extension request to OMB and will invite comments to be submitted to OMB within 30-days of publication.

The burden of updating program policies and procedures is estimated at a total of 8 hours per grant recipient. To promote flexibility for local programs, there is no standardized instrument associated with the recordkeeping requirement under this final rule. See the Regulatory Impact Analysis section for related cost estimations.

Information collection	Number of respondents	Number of responses per respondent	Average burden hours per response	Annual burden hours
Grant Recipient Updating Program Policies and Procedures	1,604	1	8	12,832
Total Burden Hours				12,832

VIII. Regulatory Impact Analysis

I. Introduction and Summary

A. Introduction

We have examined the impacts of this final rule under Executive Order 12866, Executive Order 13563, and the Regulatory Flexibility Act (5 U.S.C. 601–612). Executive Orders 12866 and 13563 direct us to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). We believe, and OIRA has determined, that this final rule is a significant regulatory action as defined by Executive Order 12866. Thus, this rule has been reviewed by the Office of Information and Regulatory Affairs.

The Regulatory Flexibility Act requires us to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because the impacts to small entities attributable to the final rule are cost savings, this analysis concludes, and we certify that the final rule will not have a significant economic impact on a substantial number of small entities. These impacts are discussed in detail in the Final Small Entity Analysis.

The Unfunded Mandates Reform Act of 1995 (section 202(a)) requires us to prepare a written statement, which includes an assessment of anticipated costs and benefits, before issuing ''any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year.'' The current threshold after adjustment for inflation is $165 million, using the most current (2021) Implicit Price Deflator for the Gross Domestic Product. This final rule will not result in expenditures in any year that meet or exceed this amount.

B. Summary of Benefits and Costs

This final rule revises requirements established on November 30, 2021, through an Interim Final Rule with Comment (IFC), ''Vaccine and Mask Requirements To Mitigate the Spread of COVID–19 in Head Start Programs.'' [38] In our main analysis, we evaluate the likely impacts of the final rule in comparison to a baseline scenario of the IFC without modifications.

The final rule requires that Head Start programs have an evidence-based COVID–19 mitigation policy, developed in consultation with their Health Services Advisory Committee. This requirement will result in a one-time cost for each program to develop its policy. Although the final rule is not prescriptive with respect to the elements of these mitigation policies, we identify and estimate ongoing costs to Head Start programs by modeling elements of a policy that are intended to be representative of a range of potential options. We address uncertainty in the representativeness of this mitigation policy in a scenario analysis that considers a range of more stringent and less stringent approaches to mitigation in the main analysis; and we address uncertainty in projecting COVID–19 over the time horizon of the analysis by considering a range of observed historic COVID–19 metrics in Section E. Uncertainty and Sensitivity Analyses. For our primary analysis, we adopt a baseline scenario of the IFC, and perform a sensitivity analysis to consider an alternative baseline that incorporates the impact of federal court injunctions affecting the IFC and a second alternative baseline of no IFC requirements.

This final rule also removes the requirement for universal masking for all individuals two years of age and older. Removing this requirement will likely result in fewer masks worn. All else equal, if fewer masks are worn as a result of the rule, this may result in increased transmission risk of SARS-CoV–2; however, this could be offset by other elements of evidence-based COVID–19 mitigation policies developed by Head Start programs.

Overall, we anticipate that the cost savings associated with removing the universal masking requirement will exceed the incremental costs of the mitigation policies. Thus, the final rule will result in net cost savings, which accrue primarily to Head Start programs. Over a 3-month time horizon, we estimate that the final rule may result in about $9.2 million in net benefits, which matches our estimate of the quantified net cost savings attributable to the final rule. Table 1 reports a range of estimates of the incremental impacts of the final rule that account for uncertainty in projecting COVID–19 over the time horizon of the analysis.

ACF considered many policy alternatives beyond the regulatory option of the final rule. In addition to assessing the impact of the final rule, this RIA analyzes and quantifies the impacts of several alternatives related to the masking requirement.

TABLE 1—SUMMARY OF COST SAVINGS, COSTS, AND NET BENEFITS, 2021 DOLLARS, 3-MONTH TIME HORIZON

Category	Primary estimate	Low estimate	High estimate
Cost Savings	$11,516,589	$10,820,796	$12,212,383
Costs	2,271,134	2,271,134	2,271,134
Quantified Net Benefits	9,245,455	8,549,662	9,941,249

Note: Estimates do not depend on the choice of 3% or 7% discount rate.

C. Comments on the Final Regulatory Impact Analysis and Our Responses

On November 30, 2021, we published a regulatory impact analysis of the IFC.[39] In the following paragraphs, we describe and respond to comments we received on our analysis of the impacts of the IFC (hereafter, ''IFC RIA''). We have numbered each comment to help distinguish between the different comment themes. The number assigned to each comment is purely for organizational purposes and does not signify the comment's value, or the order in which it was discussed by the commenter(s). We received additional comments on the IFC that are discussed elsewhere in the Preamble. Note that this section does not address comments received on the vaccination requirement since it is under review and not part of this final rule.

(Comment 1) We received several comments related to the IFC RIA assumptions related to masking. At least one commenter noted that many children require more than one mask per day, indicating that we underestimated the number of masks required. At least one commenter suggested that the total costs associated with masking that are attributable to the IFC are overstated because many parents would provide masks for their children without the masking requirement.

(Response 1) We agree with the comment that the assumption of one mask per day per child may underestimate the number of masks needed. In this RIA, we double this estimate to two masks per day per child in Head Start settings. This revised assumption is intended to represent the average number of masks per day across all children masking at Head Start programs under the final rule, recognizing that some children only require 1 mask per day and some children require more than 2 masks per day. We agree with the comment that the total cost of masking should account for masks that would be worn without the IFC; however, we disagree that the IFC RIA made no adjustment for this. Specifically, the IFC RIA included the following explicit adjustment for mask usage under the Baseline Scenario of no regulatory action: ''We anticipate that a substantial portion of these individuals would wear masks when in-person at Head Start programs without this requirement, and adopt an estimate of 25% for the share of these costs that are attributable to the Interim Final Rule.'' [40] In this RIA, we adopt a higher estimate of the share of masking costs attributable to the final rule, which reflects lower levels of voluntary masking and less masking attributable to state and local mask requirements.

(Comment 2) At least one commenter suggested our assumption that the average price per mask of $0.14 was lower than their experience.

(Response 2) We acknowledge that the price per mask varies over time, by region, and by retail channel. We also acknowledge that the average price will vary by the type of mask, as well as the quantity of masks purchased at one time. In developing the RIA of the final rule, we further explored this assumption by performing additional market research to identify current prices for disposable masks. Through this process, we identified an online vendor selling 100 disposable masks for $6.99,[41] and another vendor selling 100 disposable children's sized masks for $7.99,[42] which correspond to about $0.07 per mask and $0.08 per mask, respectively. We note that the per-mask prices may be higher for some customers after accounting for shipping costs. Ultimately, we disagree with the commenter that the RIA's assumption of average price per mask of $0.14 is too low and maintain this cost-per-mask assumption in this RIA. In addition to variation in the price per disposable masks, we know that some individuals comply with the masking requirements through the use of other face coverings, including reusable cloth masks. Accounting for reusable cloth masks would likely lower our estimate of the total cost associated with masking.

(Comment 3) We received many comments related to the potential staff turnover attributable to the IFC. Most of these comments indicated their opposition to the policy based on the potential staff turnover, which included some comments that were specific to a particular program or individual. Several comments expressed a view that the IFC RIA's estimates of the potential staff turnover were too low; however, these comments generally did not include alternative estimates and did not include recommendations for alternative analytic approach that would produce different estimates. One commenter, however, estimated that the IFC ''could lead to Head Start programs losing between 46,614 and 72,422 employees, or 18% to 26% of all staff,'' [43] deriving these results from a survey fielded after the IFC was published. We also received at least one comment that estimated one third of all Head Start staff would turnover. Several other comments gave turnover estimates that were specific to a particular program but did not provide comparable estimates of the turnover across all Head Start programs.

(Response 3) We note that the IFC RIA gave significant attention to the potential staff turnover attributable to the IFC. In that analysis, we analyzed a range of vaccine coverage scenarios and estimated the potential staff turnover for each of those scenarios. The IFC RIA reported a primary estimate of 11,517 Head Start staff potentially turning over as a result of the IFC and presented a range of turnover estimates between 0 staff to 23,035 staff, or between 0% and 8% of the total staff. In actuality, the turnover attributable to the IFC was much lower than the primary estimate in the IFC RIA. ACF currently believes the turnover attributable to the IFC was less than 1% of staff. The actual turnover was therefore also significantly below the turnover estimates of between 46,614 and 72,422 staff suggested in one comment, and less than the turnover estimate suggested by one commenter that one-third of staff turnover, which would amount to 91,000 staff.

(Comment 4) We received at least one comment that indicated the IFC RIA overestimated the number of Head Start volunteers.

(Response 4) We agree with the comment. The IFC RIA reported an estimate of the number of volunteers that predated the COVID–19 pandemic. In this analysis, we adopt a more recent estimate of 464,161 volunteers for the 2021–2022 program year, which covers Fall 2021 to Spring 2022.

II. Analysis of the Revisions to the Interim Final Rule

A. Baseline of the Interim Final Rule

For our primary analysis of the final rule, we adopt a baseline scenario of the requirements of the IFC in effect nationally over the time horizon of our analysis. The IFC added provisions to the Head Start Program Performance Standards to impose three requirements: [44]

(1) Universal masking, with some noted exceptions, for all individuals two years of age and older when there are two or more individuals in a vehicle owned, leased, or arranged by the Head Start program; when they are indoors in a setting where Head Start services are provided; and, for those not fully vaccinated, outdoors in crowded settings or during activities that involve close contact with other people. This requirement is effective immediately.

(2) Vaccination for COVID–19 for Head Start program staff, certain contractors and volunteers by January 31, 2022.

(3) For those granted an exemption to the requirement specified in (2), at least

weekly testing for current SARS-CoV–2 infection.

The baseline scenario accounts for the ongoing impacts associated with the IFC, including the benefits and costs of each of these provisions. This final rule does not address the vaccination requirement, which is still under review. Thus, we focus our quantitative assessment of the baseline scenario on the ongoing costs of the masking requirements of the IFC. In our scenario analysis below, the baseline scenario corresponds to the Universal Scenario, indicating that, without further regulatory action, the masking requirements will always be in effect for all Head Start programs in all counties.

We also considered two alternative baseline scenarios. The first alternative baseline scenario incorporates the impact of federal court injunctions affecting the IFC. The second alternative baseline scenario assumes no IFC requirements are in effect. This analysis appears in Section E. Uncertainty and Sensitivity Analyses.

B. Scenario Analysis Approach

The final rule requires that Head Start programs have an evidence-based masking policy for COVID–19 mitigation, developed in consultation with their Health Services Advisory Committee. We are uncertain over the elements of the policies that Head Start programs will adopt under the final rule; however, we anticipate that elements of the policies will either be in effect at all times or closely tied to local COVID–19 conditions. As the first step in quantifying the impacts for a range of potential mitigation policies that could be adopted by Head Start programs, we consider five discrete scenarios:

- Scenario 1, ''Universal'': Requirement will always be in effect.
- Scenario 2, ''High Level'': Requirement will be in effect in counties with a High COVID–19 Community Level.
- Scenario 3, ''High or Medium Level'': Requirement will be in effect in counties with a High or Medium COVID–19 Community Level.
- Scenario 4, ''Community Transmission'': Requirement will be in effect in counties with a High or Substantial COVID–19 County Level of Community Transmission.
- Scenario 5, ''Voluntary'': Requirement will never be in effect.

We analyzed historic data at the county level on COVID–19 Community Level [45] covering the 37-week period ending on November 3, 2022 for which data are currently available, and COVID–19 County Level of Community Transmission [46] data covering 237 days (about 34 weeks) ending on October 18, 2022. For each observation in the historic data, we calculate the share of the U.S. population living in counties with a High Community Level, the share of the U.S. population living in counties with a High or Medium Community Level, and the share of the U.S. population living in counties with High or Substantial Community Transmission. As one example calculation, on September 29, 2022, 107 counties had a High Community Level, or about 3.3% of counties. 5,239,101 people live in those 107 counties, which is about 1.6% of the total U.S. population. If all Head Start programs had adopted a masking requirement at centers in counties with a High COVID–19 Community Level, the requirement would have covered 1.6% of all staff, children, and volunteers for that week. This metric has fluctuated over time, reaching a maximum share of 60.9% of the U.S. population living in a county with High COVID–19 Community Level on July 28, 2022.

To quantify the impact of the final rule, we average these population shares over the time period of the historic data and adopt these as our primary estimates of the share of the population covered by the requirements for scenarios 2, 3, and 4 over the time horizon of the analysis. Table 2 presents estimates of the average population shares, which we multiply with the total number of Head Start staff, children, and volunteers for our primary estimates of the average number of staff and children covered by the requirements for each of the Scenarios. As one example calculation, under the ''High Level'' Scenario, we estimate that an average of 46,594 staff [= 17.1% × 273,000] would be required to mask each week over the time horizon of the analysis. Table 2 summarizes these estimates, which correspond to our primary estimates for each scenario. In Section E. Uncertainty and Sensitivity Analyses, we address uncertainty in our estimate of the average weekly population shares.

TABLE 2—ESTIMATES OF THE AVERAGE NUMBER OF HEAD START STAFF, CHILDREN, AND VOLUNTEERS IN COUNTIES WITH REQUIREMENT IN EFFECT

Scenario	Share (%)	Staff	Children	Volunteers
1: Universal	100.0	273,000	864,289	464,161
2: High Level	17.1	46,594	147,513	79,221
3: High or Medium Level	43.5	118,673	375,707	201,771
4: Community Transmission	86.3	235,504	745,582	400,410
5: Voluntary	0.0	0	0	0

C. Impacts of the Revisions to the Interim Final Rule

Masking

We estimate the number of masks required, and the costs of masking, under each of the five scenarios. As an intermediate step to calculating the number of masks required, we estimate the total in-person days per week for staff, children, and volunteers. Table 3 reports data on the operating status of Head Start Centers and presents estimates of the in-person days per week by center status. These figures come from May 2022 administrative data, the last month of data before summer break. For these estimates, we adopt several assumptions: (1) the average number of staff and children served by each center does not vary by center status; (2) that centers in hybrid operating status meet in person 2.5 days per week, on average; (3) that centers in fully in-person status meet in person 5.0 days per week, on average; (4) that staff and children attend 100% of in-person days; and (5) that volunteers attend 20% of in-person days. For the purposes of this analysis, we also assume that the centers with unknown operating status are distributed evenly across each center status category. For our estimate of the total number of children, we use ''funded enrollment,'' which refers to the number of children and pregnant people that are supported by Federal Head Start funds in a program at any one time during the program year but reduce this estimate by 1% to account for pregnant people enrolled in Early Head Start.[47]

TABLE 3—HEAD START CENTER OPERATING STATUS AND IN-PERSON DAYS PER WEEK FOR STAFF AND CHILDREN

Center status	Centers	Count			In-person days per week		
		Staff	Children	Volunteers	Staff	Children	Volunteers
Closed	501	6,814	21,573	11,586	0	0	0
Virtual/Remote	424	5,758	18,229	9,790	0	0	0
Hybrid	2,474	33,622	106,444	57,165	84,056	266,111	28,583
Fully In-Person	16,686	226,806	718,042	385,620	1,134,028	3,590,211	385,620
Total	20,085	273,000	864,289	464,161	1,218,083	3,856,322	414,203

To calculate the costs of masking under each scenario, we replicate the in-person days per week for staff and children using the estimates reported in Table 3. We reduce the estimate for children by 14% to account for children younger than age 2 that were not subject to the requirement of the IFC. We assume that staff and volunteers will use an average of one mask per day, that children will use an average of two masks per day and adopt an estimate of the cost per disposable surgical mask of $0.14. Under the Universal Scenario, we anticipate that staff, children, and volunteers will combine for a total of about 8.3 million masks per week, with the total weekly cost of these masks of about $1.2 million. We anticipate that some individuals would wear masks when in-person at Head Start programs without this requirement and adopt an estimate of 92% for the share of these costs attributable to the revised masking requirement under this scenario.

This assumption is intended to be consistent with a current projection of the mask use of 8%, representing ''the percentage of the population who say they always wear a mask in public.'' [48] This parameter should be interpreted as the average share of staff, children, and volunteers at in-person Head Start settings who would mask over the time period of the analysis, covering a range of masking outcomes that will vary over time; however, the actual share of individuals wearing a mask on any particular day will likely vary on a number of factors, including local COVID–19 conditions. We analyze the total costs over a 3-month time horizon and report an estimate of the total masking costs attributable to the final rule under Scenario 1 of about $13.9 million. We replicate this analysis for each of the other scenarios and report total masking costs for each. Finally, we report cost savings of the final rule for each scenario compared to the IFC.

TABLE 4—COST ASSOCIATED WITH MASKING, AND COST SAVINGS COMPARED TO IFC, FOR EACH SCENARIO

Cost element	Universal	High level	High and medium level	Community transmission	Voluntary
In Person Days per Week:					
Staff	1,218,083	1,218,083	1,218,083	1,218,083	1,218,083
All Children	3,856,322	3,856,322	3,856,322	3,856,322	3,856,322
Children (2+)	3,316,437	3,316,437	3,316,437	3,316,437	3,316,437
Volunteers	414,203	414,203	414,203	414,203	414,203
Masks per Staff per Day	1	1	1	1	1
Masks per Child per Day	2	2	2	2	2
Masks per Volunteer per Day	1	1	1	1	1
Centers Requiring Masking	100%	17.1%	43.5%	86.3%	0.0%
Total Masks per Week	8,265,160	1,410,660	3,592,871	7,129,967	0
Cost per Mask	$0.14	$0.14	$0.14	$0.14	$0.14
Cost of Masks per Week	$1,157,122	$197,492	$503,002	$998,195	$0
Attributable Share	92%	92%	92%	92%	92%
Weekly Attributable Cost	$1,064,553	$181,693	$462,762	$918,340	$0
Weeks Included in This Analysis	13	13	13	13	13
Total Masking Costs	$13,886,709	$2,370,120	$6,036,562	$11,979,414	$0
Cost Savings	$0	$11,516,589	$7,850,147	$1,907,295	$13,886,709

We adopt the Universal Scenario as our baseline scenario, which corresponds to the IFC approach of requiring masking at 100% of centers. We assume that the representative mitigation policy will follow the current CDC Guidelines on masking, and therefore adopt the High Level Scenario for our primary estimate of the costs of masking under the final rule. Thus, we conclude that the final rule will result in about $11.5 million in cost savings from fewer masks.

Costs of Communicating and Learning Current Masking Requirements

While the modifications to the IFC result in overall cost savings, we anticipate an additional cost to Head Start centers to communicate the current masking requirements. For each of the 19,160 centers operating fully in-person or in a hybrid status, we assume that one supervisor will spend five minutes each week to learn and communicate the current county Community Level and communicate the current requirements. Across these centers, this is about 1,597 hours per week. To monetize this impact, we apply an estimate of the value of time for on-the-job activities of supervisors, described in the Appendix, of $45.50 per hour. Multiplying this hourly value of time by the number of hours results in $72,649 per week, or $947,674 over a 3-month time horizon.

We also identify a cost to other staff to receive this information. Each of the approximately 226,806 staff at fully in-person centers and 33,622 staff at centers in hybrid operating status will

need to be aware of the current requirements. Subtracting the 19,160 staff responsible for learning and communicating the current county Community Level, we assume that 241,268 staff will receive this information. We assume that receiving this information will take 30 seconds per week and calculate that it will take a total of 2,011 hours per week across all staff. To monetize this impact, we apply an estimate of the value of time for on-the-job activities for non-supervisory staff, described in the Appendix, of $28.20 per hour. Multiplying this hourly value of time by the number of hours results in $56,698 per week, or $739,604 over a 3-month time horizon.

We report a total weekly cost of communicating and learning current masking requirements of $129,346. Over a 3-month time horizon, the total cost of communicating and learning these requirements is $1,687,278.

Costs of Establishing an Evidence-Based COVID–19 Mitigation Policy

We also identify a cost to Head Start programs to develop an evidence-based COVID–19 mitigation policy in consultation with their Health Services Advisory Committee. For each of the 1,604 grant recipients, we assume that developing an evidence-based COVID–19 mitigation policy will take an average of 8 hours. We Across all programs, we estimate that developing these mitigation policies will take a total of 12,832 hours. To monetize this impact, we apply an estimate of the value of time for on-the-job activities of supervisors, described in the Appendix, of $45.50 per hour. Multiplying this hourly value of time by the number of hours results in a one-time cost of $583,856.

Net Impact on Costs

Table 6 summarizes the costs under our Baseline of the IFC, and costs under the final rule and reports the net impact on costs of the revisions to the IFC. All estimates are reported over a 3-month time horizon in year-2021 dollars. In total, we estimate that the final rule will result in about $9.2 million in cost savings. Table 6 also reports the net impacts over an alternative time horizon of a year.

TABLE 6—PRIMARY ESTIMATES OF THE NET IMPACT ON COSTS OF THE FINAL RULE, 2021 DOLLARS, 3-MONTH TIME HORIZON

Cost element	Cost under IFC	Cost under final rule	Net impact	Net impact (year)
Masking Requirement	$13,886,709	$2,370,120	−$11,516,589	−46,066,357
Communicating and Learning	0	1,687,278	1,687,278	6,749,112
Establishing a Policy	0	583,856	583,856	583,856
Total	13,886,709	4,641,254	−9,245,455	−38,733,389

Note that negative net impacts in this table correspond to cost savings attributable to the revisions of the final rule.

D. Analysis of Policy Alternatives to the Final Rule

ACF considered many policy alternatives beyond the regulatory option of the final rule. We analyzed and quantified the impacts of five policy alternatives related to the masking requirements. Specifically, we considered the following alternative masking requirements:

(1) Adopting the approach of the IFC, which required mask wearing for all adults and children two years of age and older in certain in-person Head Start settings.

(2) Adopting a policy alternative to require masks for all adults and children two years of age and older, in certain in-person Head Start settings in counties with a High COVID–19 Community Level.

(3) Adopting a policy alternative to require masks for all adults and children two years of age and older in certain in-person Head Start settings in counties with a Medium or High COVID–19 Community Level.

(4) Adopting a policy alternative to require masks for all adults and children two years of age and older in certain in-person Head Start settings in counties with High or Substantial Community Transmission.

(5) Adopting a policy alternative to rescind the masking requirement, without adopting the requirement for an evidence-based COVID–19 mitigation policy.

We anticipate that Head Start centers will incur costs of communicating and learning current masking requirements, except for the two masking alternatives that do not depend on the COVID–19 Community Level or COVID–19 County Level of Community Transmission. Table 7 reports the net cost savings of each policy alternative over a 3-month time horizon.

TABLE 7—COST SAVINGS FOR MASKING POLICY ALTERNATIVES, MILLIONS OF 2021 DOLLARS, 3-MONTH TIME HORIZON

Masking alternative	Cost of masking	Cost of communicating and learning	Cost of establishing a policy	Total costs	Cost savings
Baseline	$13,886,709	$0	$0	$13,886,709	$0
Final Rule	2,370,120	1,687,278	583,856	4,641,254	9,245,455
Universal	13,886,709	0	0	13,886,709	0
High Level	2,370,120	1,687,278	0	4,057,398	9,829,311
High or Medium Level	6,036,562	1,687,278	0	7,723,840	6,162,869
Community Transmission	11,979,414	1,687,278	0	13,666,692	220,017
Voluntary	0	0	0	0	$13,886,709

Note that negative net impacts in this table correspond to cost savings attributable to the revisions of the final rule.

E. Uncertainty and Sensitivity Analyses

Uncertainty Over COVID–19 Projections

Our primary estimates of the cost savings of the final rule incorporate estimates of the share of the population covered by the requirements, based on historic averages of the observed share of the population in counties with a High COVID–19 Community Level for masking. Projecting this metric is inherently uncertain. To address this uncertainty, we use a bootstrap estimator of the mean share, sampling with replacement weekly observations of the share of the population from the historic data. We use this process to generate a 90% confidence interval around our estimated means. Table 8 reports our primary estimate and a 5% (Low) and 95% (High) confidence bounds of this mean. For this analysis, we used Stata/MP 17.0 and 100,000 replications.

TABLE 8—SHARE OF POPULATION IN COUNTIES WITH REQUIREMENT IN EFFECT

Scenario	Share		
	Primary	Low	High
1: Universal	100.0%	100.0%	100.0%
2: High Level	17.1%	12.1%	22.1%
3: High or Medium Level	43.5%	35.9%	51.0%
4: Community Transmission	86.3%	84.2%	88.3%
5: Voluntary	0.0%	0.0%	0.0%
Scenario	Impact on Costs, Masking		
1: Universal	$0	$0	$0
2: High Level	−$11,516,589	−$12,212,383	−$10,820,796
3: High or Medium Level	−$7,850,147	−$8,898,821	−$6,801,473
4: Community Transmission	−$1,907,295	−$2,190,078	−$1,624,510
5: Voluntary	−$13,886,709	−$13,886,709	−$13,886,709

Analysis of Alternative Baseline Scenarios

In our primary analysis of the final rule, we adopt a baseline scenario of the requirements of the IFC in effect nationally over the time horizon of our analysis (''IFC'' in Table 9 below). We also performed a sensitivity analysis that adopts two alternative baseline scenarios. Our first alternative baseline scenario (''Injunction'') accounts for two federal court injunctions.[49] We estimate that these injunctions jointly cover about 45.5% of Head Start staff. Thus, under our alternative baseline that accounts for the federal court injunctions, we reduce the costs of masking by 45.5% compared to our primary baseline. We also assess the impact of the final rule under a second alternative baseline of ''No IFC.'' Table 9 reports the costs under each of these baselines, the costs under the final rule, and presents the impact on costs under each of the baselines. For this analysis, we assume that the final rule will be in effect at all Head Start programs.

TABLE 9—COST ANALYSIS UNDER ALTERNATIVE BASELINES

Cost element	Baseline costs			Costs under final rule	Impact on costs		
	IFC	Injunction	No IFC		IFC	Injunction	No IFC
Masking Requirement	$13.9	$7.6	$0.0	$2.4	−$11.5	−$5.2	$2.4
Communicating and Learning	0.0	0.0	0.0	1.7	1.7	1.7	1.7
Establishing a Policy	0.0	0.0	0.0	0.6	0.6	0.6	0.6
Total	13.9	7.6	0.0	4.6	−9.2	−2.9	4.6

III. Final Small Entity Analysis

We have examined the economic implications of this Interim Final Rule as required by the Regulatory Flexibility Act. This analysis, as well as other sections in this Regulatory Impact Analysis, serves as the Initial Regulatory Flexibility Analysis, as required under the Regulatory Flexibility Act.

A. Description and Number of Affected Small Entities

The U.S. Small Business Administration (SBA) maintains a Table of Small Business Size Standards Matched to North American Industry Classification System Codes (NAICS).[50] We replicate the SBA's description of this table:

This table lists small business size standards matched to industries described in the North American Industry Classification System (NAICS), as modified by the Office of Management and Budget, effective January 1, 2017. The latest NAICS codes are referred to as NAICS 2017.

The size standards are for the most part expressed in either millions of dollars (those preceded by ''$'') or number of employees (those without the ''$''). A size standard is the largest that a concern can be and still qualify as a small business for Federal Government programs. For the most part, size standards are the average annual receipts or the average employment of a firm.

This final rule will impact small entities in NAICS category 624410, Child Day Care Services, which has a size standard of $8.5 million dollars. We assume that all 20,085 Head Start centers are below this threshold and are considered small entities.

B. Description of the Impacts of the Rule on Small Entities

Compared to our Baseline Scenario of the IFC, this final rule will result in cost savings for Head Start programs associated with modifications to the masking requirement, costs associated with communicating current requirements, and costs associated with

revisions to policies and procedures. As outlined in Table 6, we estimate that the incremental impact of the final rule is about $9.2 million in net cost savings for Head Start programs. Across 20,085 centers, we estimate that these cost savings will average $460.32 in cost savings per center. This analysis concludes that the final rule is not likely to result in a significant impact on a substantial number of small entities.

IV. Appendix

A. Value of Time Calculations

On-the-Job Activities for Supervisors

For changes in time use for on-the-job activities for supervisors, we adopt an hourly value of time based on the cost of labor, including wages and benefits, and also indirect costs, which ''reflect resources necessary for the administrative oversight of employees and generally include time spent on administrative personnel issues (*e.g.,* human resources activities such as hiring, performance reviews, personnel transfers, affirmative action programs), writing administrative guidance documents, office expenses (*e.g.,* space rental, utilities, equipment costs), and outreach and general training (*e.g.,* employee development).'' [51]

For supervisors, we identify a pre-tax hourly wage of Education and Childcare Administrators, Preschool and Daycare, in the Child Day Care Services industry. According to the U.S. Bureau of Labor Statistics, the hourly median wage for these individuals is $22.75 per hour.[52] We assume that benefits plus indirect costs equal approximately 100 percent of pre-tax wages, and adjust this hourly rate by multiplying by two, for a fully loaded hourly wage rate of $45.50. We adopt this as our estimate of the hourly value of time for changes in time use for on-the-job activities for supervisors.

On-the-Job Activities for Non-Supervisory Staff

For non-supervisory staff, we identify a pre-tax hourly wage of Preschool and Kindergarten Teachers in the Child Day Care Services industry. According to the U.S. Bureau of Labor Statistics, the hourly median wage for these individuals is $14.10 per hour.[53] We assume that benefits plus indirect costs equal approximately 100 percent of pre-tax wages, and adjust this hourly rate by multiplying by two, for a fully loaded hourly wage rate of $28.20. We adopt this as our estimate of the hourly value of time for changes in time use for on-the-job activities for non-supervisory staff.

IX. Tribal Consultation Statement

ACF conducts an average of five tribal consultations each year for tribes operating Head Start and Early Head Start. The consultations are held in four geographic areas across the country: Southwest, Northwest, Midwest (Northern and Southern), and East. The consultations are often held in conjunction with other tribal meetings or conferences, to ensure the opportunity for most of the 150 tribes that operate Head Start and Early Head Start programs to attend and voice their concerns regarding service delivery. We complete a report after each consultation, and then we compile a final report that summarizes the consultations. We submit the report to the Secretary of Health and Human Services (the Secretary) at the end of the year.

January Contreras, Assistant Secretary of the Administration for Children and Families, approved this document on December 7, 2022.

List of Subjects in 45 CFR Part 1302

COVID–19, Education of disadvantaged, Grant programs—social programs, Head Start, Health care, Mask use, Monitoring, Safety.

Dated: December 27, 2022.

Xavier Becerra,

Secretary, Department of Health and Human Services.

For reasons discussed in the preamble, 45 CFR part 1302 is amended as follows:

PART 1302—PROGRAM OPERATIONS

■ 1. The authority citation for part 1302 continues to read as:

Authority: 42 U.S.C. 9801 *et seq.*

■ 2. Amend§ 1302.47 by:
■ a. Adding the word ''and'' at the end of (b)(5)(iv).
■ b. Removing the word ''and'' from paragraph (b)(5)(v).
■ c. Removing paragraph (b)(5)(vi).
■ d. Adding paragraph (b)(9).

The addition reads as follows:

§ 1302.47 Safety practices.

* * * * *

(b) * * *

(9) *COVID–19 mitigation policy.* The program has an evidence-based COVID–19 mitigation policy developed in consultation with their Health Services Advisory Committee (HSAC) that can be scaled up or down based on the impact of COVID–19 in the community to protect staff, children, and families from COVID–19 infection.

* * * * *

Endnotes

[1] Exceptions were noted for when individuals are eating or drinking; for children when they are napping; for the narrow subset of persons who cannot wear a mask, or cannot safely wear a mask, because of a disability as defined by the Americans with Disabilities Act (ADA), consistent with CDC guidance on disability exemptions; and for children with special health care needs, for whom programs should work together with parents and follow the advice of the child's health care provider for the best type of face covering.

[2] *https://www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/k-12-childcare-guidance.html.*

[3] 86 FR 68052.

[4] Not all the listed considerations are included because they are only relevant to certain standards, such as curriculum.

[5] *https://www.cdc.gov/coronavirus/2019-ncov/science/science-briefs/fully-vaccinated-people.html.*

[6] Centers for Disease Control and Prevention. ''Delta Variant: What We Know About the Science.'' August 26, 2021. Available at: *https://www.cdc.gov/coronavirus/2019-ncov/variants/delta-variant.html.*

[7] Trends in COVID–19 Cases, Emergency Department Visits, and Hospital Admissions Among Children and Adolescents Aged 0–17 Years—United States, August 2020–August 2021 | MMWR.

[8] *https://covid.cdc.gov/covid-data-tracker/#rates-by-vaccine-status* MMWR Morb Mortal Wkly Rep 2021;70:1255–1260. DOI: *http://dx.doi.org/10.15585/mmwr.mm7036e2.*

[9] *Texas et al.* v. *Becerra, et al.,* 577 F. Supp. 3d 527 (N.D. Tex. 2021)

[10] *Louisiana, et al.* v. *Becerra, et al.,* No. 21–cv–04370, 2022 WL 4370448,—F. Supp. 3d—(W.D. La. Sept. 21, 2022); *Louisiana, et al.* v. *Becerra, et al.,* No. 21–cv–04370, 577 F. Supp. 3d 483 (W.D. La. 2022).)

[11] Note: January 2022 center status is not included due to a system error with the Head Start Enterprise System, causing unusually high unreported values.

[12] OHS acknowledges that we do not know what impacts on enrollment would have been in states that did not implement the requirements.

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[14] Goldin A, Weinstein BE, Shiman N. How do medical masks degrade speech perception? *Hearing Review.* 2020;27(5):8–9.

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Implications for social interactions during COVID–19. PLoS ONE 15(12): e0243708. *https://doi.org/10.1371/journal.pone.0243708.*

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[20] Classroom language during COVID–19: Associations between mask-wearing and objectively measured teacher and preschooler vocalizations

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[23] Johansson MA, Quandelacy TM, Kada S, et al. SARS–CoV–2 transmission from people without COVID–19 symptoms. JAMA Netw Open. 2021;4(1):e2035057.

[24] CDC. Science Brief: Community Use of Masks to Control the Spread of SARS–CoV–2. *https://www.cdc.gov/coronavirus/2019-ncov/science/science-briefs/masking-science-sars-cov2.html.*

[25] Kwon S, Joshi AD, Lo CH, et al. Association of social distancing and face mask use with risk of COVID–19. Nat Commun 2021;12:3737. *https://doi.org/10.1038/s41467-021-24115-7external* icon PMID:34145289.

[26] CDC. Science Brief: Community Use of Masks to Control the Spread of SARS–CoV–2. *https://www.cdc.gov/coronavirus/2019-ncov/science/science-briefs/masking-science-sars-cov2.html.*

[27] Smith J, Culler A, Scanlon K. Impacts of blood gas concentration, heart rate, emotional state, and memory in school-age children with and without the use of facial coverings in school during the COVID–19 pandemic. FASEB J. 2021;35(Suppl 1) doi:10.1096/fasebj.2021.35.S1.04955.

[28] Lubrano R, Bloise S, Testa A, et al. Assessment of respiratory function in infants and young children wearing face masks during the COVID–19 pandemic. JAMA Netw Open. 2021;4(3):e210414.

[29] Murray TS, Malik AA, Shafiq M, et al. Association of Child Masking With COVID–19-Related Closures in US Childcare Programs. *JAMA Netw Open.* 2022;5(1):e2141227. doi:10.1001/jamanetwork.2021.41227

[30] Gettings J, Czarnik M, Morris E, et al. Mask Use and Ventilation Improvements to Reduce COVID–19 Incidence in Elementary Schools—Georgia, November 16–December 11, 2020. MMWR Morb Mortal Wkly Rep 2021;70:779–784. DOI: *http://dx.doi.org/10.15585/mmwr.mm7021e1external* icon.

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[36] Adapted from European Centre for Disease Control and Prevention. European Centre for Disease Prevention and Control. Evidence-based methodologies for public health—How to assess the best available evidence when time is limited and there is lack of sound evidence. Stockholm: ECDC; 2011. *https://www.ecdc.europa.eu/sites/default/files/media/en/publications//Publications/1109_TER_evidence_based_methods_for_public_health.pdf.*

[37] Centers for Disease Control and Prevention. ''Operational Guidance for K–12 Schools and Early Care and Education Programs to Support Safe In-Person Learning.'' May, 27, 2022. Available at: *https://www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/k-12-childcare-guidance.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fcommunity%2Fschools-childcare%2Fchild-care-guidance.html.*

[38] 86 FR 68052.

[39] Ibid.

[40] Ibid.

[41] *https://www.amazon.com/WRAPCOTT-Disposable-Layer-Breathable-Lightweight/dp/B08L6JGJM3/.* $6.99 price per 100 masks observed when accessing this online vendor on November 9, 2022.

[42] *https://www.amazon.com/Disposable-Elastic-Earloops-Childcare-Colorful/dp//B09JYL9C6K/ref=sr_1_4.* $7.99 price per 100 masks observed when accessing this online vendor on November 9, 2022.

[43] *https://www.regulations.gov/comment/ACF-2021-0003-2410.*

[44] 86 FR 68053.

[45] Centers for Disease Control and Prevention. United States COVID–19 Community Levels by County *https://data.cdc.gov/Public-Health-Surveillance//United-States-COVID-19-Community-Levels-by-County/3nnm-4jni.* Accessed November 4, 2022.

[46] Centers for Disease Control and Prevention. United States COVID–19 County Level of Community Transmission. *https://data.cdc.gov/Public-Health-Surveillance/United-States-COVID-19-County-Level-of-Community-T/nra9-vzzn/data.* CDC notes that this data series will no longer be updated as of October 20, 2022. Accessed November 4, 2022.

[47] *https://eclkc.ohs.acf.hhs.gov/sites/default/files/pdf/no-search/hs-program-fact-sheet-2019.pdf.*

[48] *https://covid19.healthdata.org/united-states-of-america?view=mask-use&tab=trend.* Accessed November 9, 2022.

[49] As of December 31, 2021, following a decision by the United States District Court for the Northern District of Texas, implementation and enforcement of the IFC is preliminarily enjoined in Texas. As of January 1, 2022, following a decision by the United States District Court for the Western District of Louisiana, implementation and enforcement of the IFC is preliminarily enjoined in the following 24 states: Alabama, Alaska, Arizona, Arkansas, Florida, Georgia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nebraska, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Utah, West Virginia, and Wyoming. Head Start, Early Head Start, and Early Head Start-Child Care Partnership grant recipients in those 25 states are not required to comply with the IFC pending future developments in the litigation.

[50] U.S. Small Business Administration (2022). ''Table of Size Standards.'' May 2, 2022. *https://www.sba.gov/document/support-table-size-standards.*

[51] U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation. 2017. ''Valuing Time in U.S. Department of Health and Human Services Regulatory Impact Analyses: Conceptual Framework and Best Practices.'' *https://aspe.hhs.gov/reports/valuing-time-us-department-health-/human-services-regulatory-impact-analyses-conceptual-framework.* Page v.

[52] U.S. Bureau of Labor Statistics. Occupational Employment and Wages, May 2021. 11–9031 Education and Childcare Administrators, Preschool and Daycare. Median hourly wage. *https://www.bls.gov/oes/current/oes119031.htm.*

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[FR Doc. 2022–28451 Filed 1–5–23; 8:45 a.m.]

BILLING CODE 4184–01–P

Proposed Rules

Federal Register
Vol. 88, No. 4
Friday, January 6, 2023

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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

[NRC–2022–0181]

RIN 3150–AK88

List of Approved Spent Fuel Storage Casks: Holtec International HI–STORM Flood/Wind Multipurpose Canister Storage System, Certificate of Compliance No. 1032, Amendment No. 6

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is proposing to amend its spent fuel storage regulations by revising the Holtec International Storage Module Flood/Wind (HI–STORM FW) multipurpose Canister Storage System listing within the ''List of approved spent fuel storage casks'' to include Amendment No. 6 to Certificate of Compliance No. 1032. Amendment No. 6 revises and clarifies design and operational requirements in the certificate of compliance for the HI–STORM FW overpack. This amendment also incorporates additional clarifications as well as editorial changes that do not change the substantive technical information of the certificate of compliance.

DATES: Submit comments by February 6, 2023. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Submit your comments, identified by Docket ID NRC–2022–0181, at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* call or email the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

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: Norma Garcia Santos, Office of Nuclear Material Safety and Safeguards, telephone: 301–415–6999, email: *Norma.GarciaSantos@nrc.gov* and Gregory Trussell, Office of Nuclear Material Safety and Safeguards, telephone: 301–415–6244, email: *Gregory.Trussell@nrc.gov.* Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2022–0181 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–2022–0181. 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, 301–415–4737, or by email to *PDR.Resource@nrc.gov.* For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the ''Availability of Documents'' section.
- *NRC's PDR:* You may examine and purchase copies of public documents, by appointment, at the NRC's PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8:00 a.m. and 4:00 p.m. eastern time, Monday through Friday, except Federal holidays.

B. Submitting Comments

Please include Docket ID NRC–2022–0181 in your comment submission. The NRC requests that you submit comments through the Federal rulemaking website at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* call or email the individual or individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

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. Rulemaking Procedure

Because the NRC considers this action to be non-controversial, the NRC is publishing this proposed rule concurrently with a direct final rule in the Rules and Regulations section of this issue of the **Federal Register**. The direct final rule will become effective on March 22, 2023. However, if the NRC receives any significant adverse comment by February 6, 2023, then the NRC will publish a document that withdraws the direct final rule. If the

direct final rule is withdrawn, the NRC will address the comments in a subsequent final rule. Absent significant modifications to the proposed revisions requiring republication, the NRC will not initiate a second comment period on this action in the event the direct final rule is withdrawn.

A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

(1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, a substantive response is required when:

(a) The comment causes the NRC to reevaluate (or reconsider) its position or conduct additional analysis;

(b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

(c) The comment raises a relevant issue that was not previously addressed or considered by the NRC.

(2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

(3) The comment causes the NRC to make a change (other than editorial) to the rule.

For a more detailed discussion of the proposed rule changes and associated analyses, see the direct final rule published in the Rules and Regulations section of this issue of the **Federal Register**.

III. Background

Section 218(a) of the Nuclear Waste Policy Act of 1982, as amended, states that ''[t]he Secretary [of the Department of Energy] shall establish a demonstration program, in cooperation with the private sector, for the dry storage of spent nuclear fuel at civilian nuclear power reactor sites, with the objective of establishing one or more technologies that the [Nuclear Regulatory] Commission may, by rule, approve for use at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site-specific approvals by the Commission.'' Section 133 of the Nuclear Waste Policy Act states, in part, that ''[t]he Commission shall, by rule, establish procedures for the licensing of any technology approved by the Commission under Section 219(a) [sic: 218(a)] for use at the site of any civilian nuclear power reactor.''

To implement this mandate, the Commission approved dry storage of spent nuclear fuel in NRC-approved casks under a general license by publishing a final rule that added a new subpart K in part 72 of title 10 of the *Code of Federal Regulations* (10 CFR) entitled ''General License for Storage of Spent Fuel at Power Reactor Sites'' (55 FR 29181; July 18, 1990). This rule also established a new subpart L in 10 CFR part 72 entitled ''Approval of Spent Fuel Storage Casks,'' which contains procedures and criteria for obtaining NRC approval of spent fuel storage cask designs. The NRC subsequently issued a final rule on March 28, 2011 (76 FR 17019) that approved the HI–STORM FW Cask System design and added it to the list of NRC-approved cask designs in § 72.214 as Certificate of Compliance No. 1032.

IV. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111–274) requires Federal agencies to write documents in a clear, concise, well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, ''Plain Language in Government Writing,'' published June 10, 1998 (63 FR 31885). The NRC requests comment on the proposed rule with respect to clarity and effectiveness of the language used.

V. Availability of Documents

The documents identified in the following table are available to interested persons as indicated.

Document	ADAMS accession No./Web Link/**Federal Register** citation
Submission of a Request to Amend the U.S. Nuclear Regulatory Commission Certificate of Compliance No. 1032, October 2, 2019.	ML19282C357 (package).
Holtec Responses to HI–STORM FW Amd. 6 Requests for Supplemental Information, June 30, 2020.	ML20182A860 (package).
Holtec Responses to HI–STORM FW Amd. 6 Requests for Additional Information, December 21, 2020.	ML20356A328.
Supplemental Responses to HI–STORM FW Amd. 6 Requests for Additional Information, August 2, 2021.	ML21214A130 (package).
Holtec International Revised Supplemental Responses for HI–STORM FW Amd. 6 Requests for Additional Information, November 29, 2021.	ML21333A137 (package).
CoC 1032 Amendment No. 6 Preliminary Safety Evaluation Report	ML22145A411.
Draft Certificate of Compliance No. 1032 Amendment No. 6	ML22145A408.
Proposed CoC 1032 Amendment No. 6 Technical Specifications, Appendix A	ML22145A409.
Proposed CoC 1032 Amendment No. 6 Approved Contents and Design Features, Appendix B	ML22145A410.
User Need Memorandum for Rulemaking for the HI–STORM Flood/Wind Multipurpose Canister Storage System, Amendment No. 6.	ML22145A407.

The NRC may post materials related to this document, including public comments, on the Federal rulemaking website at *https://www.regulations.gov* under Docket ID NRC–2022–0181. In addition, the Federal rulemaking website allows members of the public to receive alerts when changes or additions occur in a docket folder. To subscribe: (1) navigate to the docket folder (NRC–2022–0181); (2) click the ''Subscribe'' link; and (3) enter an email address and click on the ''Subscribe'' link.

Dated: December 21, 2022.

For the Nuclear Regulatory Commission.

Daniel H. Dorman,

Executive Director for Operations.

[FR Doc. 2022–28634 Filed 1–5–23; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF JUSTICE

28 CFR Part 16

[CPCLO Order No. 12–2021; AG Order No. 5574–2022]

RIN 1105–AB66

Privacy Act Regulations

AGENCY: United States Department of Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: This rule proposes to amend the United States Department of Justice (''DOJ'' or ''Department'') Privacy Act implementation regulations, including its Privacy Act record access and amendment procedures. Additionally, this rule includes procedures regarding processing Privacy Act requests to access or amend covered records, as designated under the Judicial Redress Act of 2015, and expands protections on the Department's maintenance of Social Security account numbers, in accordance with the Social Security Number Fraud Prevention Act of 2017.

DATES: Electronic comments must be submitted and written comments must be postmarked or otherwise indicate a shipping date on or before March 7, 2023. The electronic Federal Docket Management System at *https://www.regulations.gov* will accept electronic comments until 11:59 p.m. Eastern Time on that date.

ADDRESSES: You may send comments by one of the two following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov.* When submitting comments electronically, you must include the CPCLO Order No. in the subject box.
- *Mail:* United States Department of Justice, Office of Privacy and Civil Liberties, ATTN: Privacy Analyst, Office of Privacy and Civil Liberties, 145 N St. NE, Suite 8W.300, Washington, DC 20530. All comments sent via regular or express mail will be considered timely if postmarked on the day the comment period closes. To ensure proper handling, please reference the CPCLO Order No. in your correspondence.

FOR FURTHER INFORMATION CONTACT: Katherine Harman-Stokes, Acting Director, U.S. Department of Justice, Office of Privacy and Civil Liberties, Two Constitution Square, 145 N Street NE, Suite 8W.300, Washington, DC 20530, telephone (202) 514–0208 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

I. Public Participation

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of this proposed rule via the one of the methods and by the deadline stated above. All comments must be submitted in English or accompanied by an English translation. The Department of Justice also invites comments that relate to the economic, environmental, or federalism effects that might result from this proposed rule. Comments that will provide the most assistance to the Department in developing these procedures will reference a specific portion of the proposed rule; explain the reason for any recommended change; and include data, information, or authority that support such recommended change.

Please note that all comments received are considered part of the public record and made available for public inspection at *https://www.regulations.gov.* Such information includes personally identifying information (such as your name, address, etc.) voluntarily submitted by the commenter.

If you want to submit personally identifying information (such as your name address, etc.) as part of your comment, but do not want it to be posted online, you must include the phrase ''PERSONALLY IDENTIFYING INFORMATION'' in the first paragraph of your comment and identify what information you want redacted.

If you want to submit confidential business information as part of your comment, but do not want it to be posted online, you must include the phrase ''CONFIDENTIAL BUSINESS INFORMATION'' in the first paragraph of your comment. You also must prominently identify confidential business information to be redacted within the comment. If a comment has so much confidential business information that it cannot be effectively redacted, all or part of that comment may not be posted on *https://www.regulations.gov.*

Personally identifying information located as set forth above will be placed in the agency's public docket file, but not posted online. Confidential business information identified and located as set forth above will not be placed in the public docket file. The Department may withhold from public viewing information provided in comments that they determine may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *https://www.regulations.gov.* To inspect the agency's public docket file in person, you must make an appointment with the agency. Please see the **FOR FURTHER INFORMATION CONTACT** section above for agency contact information.

The Department may withhold from public viewing information provided in comments that they determine may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *https://www.regulations.gov.*

II. Overview of the Department's Current Privacy Act of 1974 Implementation Regulations

The Privacy Act of 1974, as amended, 5 U.S.C. 552a (''Privacy Act''), establishes certain agency responsibilities and individual rights regarding the collection, use, maintenance, and disclosure of records about individuals. To carry out these rights, the Privacy Act requires agencies to promulgate rules that will: (1) establish procedures whereby an individual can be notified if any system of records named by the individual contains a record pertaining to that individual; (2) define reasonable times, places, and requirements for identifying an individual who requests a record or information pertaining to the individual before the agency shall make the record or information available; (3) establish procedures for the disclosure to an individual upon request of a record or information pertaining to the individual, including special procedures, if deemed necessary, for the disclosure to an individual of medical records pertaining to the individual; (4) establish procedures for reviewing a request from an individual concerning the amendment of any record or information pertaining to the individual, for making a determination on the request, for an appeal within the agency of an initial adverse agency determination, and for whatever additional means may be necessary for each individual to exercise fully the individual's rights under the Privacy Act; and (5) establish fees to be charged, if any, to any individual for making copies of records pertaining to the individual, excluding the cost of any search for and review of the record. 5 U.S.C. 552a(f).

The Department's current Privacy Act regulations are promulgated at title 28,

part 16, subpart D, Code of Federal Regulations. While existing procedures have largely remained the same, certain amendments are required to ensure the Department's Privacy Act regulations reflect changes in the law, as well as in the Department's practices.

III. Discussion of Proposed Changes

A. Relationship to the Freedom of Information Act

The Department continues to process all Privacy Act requests for access to records under the Freedom of Information Act (''FOIA''), 5 U.S.C. 552, following the rules contained in subpart A of part 16, thus giving requesters the benefit of both statutes. The updates to subpart D, in particular 28 CFR 16.41–16.45, would better align the FOIA and Privacy Act request-for-access procedures. For example, updates to 28 CFR 16.42 would align the consultation, referral, and coordination procedures with the FOIA procedures under 28 CFR 16.4, subject to certain deviations to comply with Privacy Act requirements. Updates to 28 CFR 16.42–16.43 would align the re-routing of misdirected Privacy Act requests for access procedures, the procedures for determining which component is responsible for responding to a request, and the timing for those responses, with the FOIA procedures contained in 28 CFR part 16, subpart A. Finally, similar to the FOIA procedures, components are encouraged, to the extent practicable, to communicate with requesters having access to the internet using electronic means, such as by email or through a web portal.

B. Updates to the Privacy Act Request-for-Access Procedures

The changes set forth in this notice of proposed rulemaking would update the Department's Privacy Act request-for-access procedures to more accurately reflect existing practices. First, the rules would clarify that the Department has a decentralized system for responding to Privacy Act requests for access, by informing requesters that they may make a Privacy Act request for access by writing directly to the component that maintains the record. 28 CFR 16.41(a)(1). The updates remove the requirement that a requester send or deliver requests to Department field offices, and instead requires requesters to send or deliver requests to the component's office at the address listed in appendix I to 28 CFR part 16, or in accordance with the access procedures outlined in the corresponding System of Records Notice. 28 CFR 16.41(a)(2).

Additionally, the update removes explicit references to in-person Privacy Act requests for access because such requests have become generally impracticable for members of the public. That said, the new procedures would explicitly state that a requester may request a record in a particular form or format, 28 CFR 16.41(b), and components will honor a requester's preference where the record is readily reproducible by the component in the form or format requested, 28 CFR 16.43(a). This would continue to permit a member of the public to request access to the member's records in-person when components can provide a copy of the record for in-person inspection.

C. Updates to the Privacy Act Procedures for Requests for Amendment or Correction

The proposed rule would update the Department's procedures for requesting amendment or correction of records under the Privacy Act, in accordance with existing practices. First, the proposed rule would explicitly set out the timing for components to respond to a Privacy Act request for amendment or correction. 28 CFR 16.46(b). In accordance with the Privacy Act, 5 U.S.C. 552a(d)(2), components responsible for responding to a Privacy Act request for amendment or correction must acknowledge, in writing, the receipt of the request no later than ten (10) working days after receipt, and must promptly grant or refuse to grant the request. 28 CFR 16.46(b)(1). The proposed rule would authorize components to designate multiple processing tracks that distinguish between simple and more complex Privacy Act requests for amendment or correction, consistent with the Privacy Act request-for-access procedures. 28 CFR 16.46(b)(3). The proposed rule would require components to provide additional content in the response that components must provide when refusing to grant a Privacy Act request for amendment or correction. 28 CFR 16.46(e). Finally, the proposed rule would update the list of records not subject to amendment or correction. 28 CFR 16.46(i).

D. Privacy Act Access Appeals and Privacy Act Amendment Appeals

The proposed rule would update the Department's Privacy Act administrative appeal procedures to align with existing practices. First, the rules would clarify that a refusal to grant a Privacy Act request for access or Privacy Act request for amendment or correction would be subject to an administrative appeal, and would provide examples of what commonly qualifies as a refusal to grant a Privacy Act request. 28 CFR 16.45–16.46. The proposed rule would clarify that the Attorney General has designated the Director of the Office of Information Policy, or the Director's designee, with the responsibility for adjudicating Privacy Act access appeals, 28 CFR 16.45(b)(1), and the DOJ Chief Privacy and Civil Liberties Officer (''CPCLO''), or the CPCLO's designee, with the responsibility for adjudicating Privacy Act amendment appeals. 28 CFR 16.46(f)(1).

E. Safeguards and Employee Code of Conduct

The proposed rule would update the Department's Privacy Act record safeguard requirements and employee conduct requirements to reflect updated standards of practice. First, the updates would clarify that the Department's administrative, technical, and physical controls in place for its systems of records are consistent with applicable Department and government-wide laws, regulations, policies, and standards, including but not limited to those required for the security of Department information systems. 28 CFR 16.51. Second, the updates would require Department employees to read, acknowledge, and agree to abide by the Department of Justice rules of behavior for accessing, collecting, using, maintaining, and protecting personally identifiable information. 28 CFR 16.54.

F. Judicial Redress Act of 2015

The Judicial Redress Act of 2015, Public Law 114–126, 130 Stat. 282 (''Judicial Redress Act''), codified at 5 U.S.C. 552a note, extends certain rights of judicial redress established under the Privacy Act to citizens of foreign countries or regional economic organizations certified as a ''covered country.'' Specifically, the Judicial Redress Act enables a ''covered person'' (*i.e.,* a natural person, other than a U.S. citizen or permanent resident alien, who is a citizen of a covered country) to bring suit and obtain specified redress in the same manner, to the same extent, and subject to the same limitations, including exemptions and exceptions, as an ''individual'' (*i.e.,* a U.S. citizen or permanent resident alien) may bring suit and obtain specified redress with respect to the improper refusal to grant access to or an amendment of a ''covered record'' (*i.e.,* a record pertaining to the covered person transferred by a public authority of, or a private entity within, a covered country to a designated Federal agency or component for purposes of preventing, investigating, detecting, or

prosecuting criminal offenses) under 5 U.S.C. 552a(g)(1)(A) & (B). The update would clarify that, consistent with the processes established for individuals under the Privacy Act, a covered person must follow the Privacy Act request-for-access procedures, or the Privacy Act request-for-amendment or correction procedures, before a covered person could file suit. 28 CFR 16.40(e).

G. Social Security Number Fraud Prevention Act of 2017

The Social Security Number Fraud Prevention Act of 2017, Public Law 115–59, 131 Stat. 1152 (''SSN Fraud Prevention Act''), codified at 42 U.S.C. 405 note, requires the Department to promulgate rules that will: (1) specify the circumstances under which inclusion of a Social Security account number on a document sent by mail is necessary; (2) instruct components on the partial redaction of Social Security account numbers where feasible; and (3) require that Social Security account numbers not be visible on the outside of any package sent by mail. This proposal would promulgate the above requirements.

Specifically, the updates would define the term ''necessary'' to include only those circumstances in which a component would be unable to comply, in whole or in part, with a legal, regulatory, or policy requirement if prohibited from mailing the full Social Security account number. 28 CFR 16.53(b). The definition further specifies that including the full Social Security account number on a document sent by mail is not necessary if a legal, regulatory, or policy requirement could be satisfied by either partially redacting the Social Security account number or by removing the Social Security number entirely. *Id.* Components are then restricted from including the full Social Security account number on any document sent by mail unless the inclusion of the Social Security account number on the document is necessary. 28 CFR 16.53(d). Unless the Attorney General directs otherwise, the CPCLO is authorized to assist components in interpreting this paragraph. 28 CFR 16.53(d)(1).

The update would also instruct components, where feasible, to partially redact the Social Security account number on any document sent by mail by including no more than the last four digits of the Social Security account number, while prioritizing technical methods to facilitate such redactions. 28 CFR 16.53(d)(3).

H. Administrative Amendments

Finally, the proposal would amend 28 CFR part 16, subpart D, throughout to correct minor administrative edits or to reorganize sentences, sections, or paragraphs for readability.

IV. Regulatory Certifications

Executive Orders 12866 and 13563—Regulatory Review

This proposed rule does not raise novel legal or policy issues, nor does it adversely affect the economy, the budgetary impact of entitlements, grants, user fees, loan programs, or the rights and obligations of recipients thereof in a material way. The Department of Justice has determined that this rule is not a ''significant regulatory action'' under Executive Order 12866, section 3(f), and accordingly this rule has not been reviewed by the Office of Information and Regulatory Affairs within the Office of Management and Budget (''OMB'') pursuant to Executive Order 12866.

Regulatory Flexibility Act

This proposed rule relates to individuals rather than small business entities. Pursuant to the requirements of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, therefore, the proposed rule will not have a significant economic impact on a substantial number of small entities.

Congressional Review Act

This proposed rule is not a major rule as defined by the Congressional Review Act, 5 U.S.C. 804. This proposed rule will not result in an annual effect on the economy of $100,000,000 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.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995, 44 U.S.C. 3507(d), requires the Department to consider the impact of paperwork and other information collection burdens imposed on the public. The DOJ Certification of Identity Form, DOJ–361, has been assigned OMB No. 1103–0016.

Unfunded Mandates Reform Act of 1995

This proposed rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

List of Subjects in 28 CFR Part 16

Administrative practices and procedures, Courts, Freedom of information, Privacy.

Pursuant to the authority vested in me by 5 U.S.C. 552a and 42 U.S.C. 405 note, the Department of Justice proposes to amend 28 CFR part 16 as follows:

PART 16—PRODUCTION OR DISCLOSURE OF MATERIAL OR INFORMATION

■ 1. The authority citation for part 16 is revised to read as follows:

Authority: 5 U.S.C. 301, 552, 552a, 553; 28 U.S.C. 509, 510, 534; 31 U.S.C. 3717; 42 U.S.C. 405.

■ 2. Revise subpart D to read as follows:

Subpart D—Access to and Amendment of Individual Records Pursuant to the Privacy Act of 1974, and Other Privacy Protections

Sec.

§ 16.40 General provisions.

(a) *Purpose and scope.* (1) This subpart contains the rules that the Department of Justice (''DOJ'' or ''the Department'') follows when handling records maintained by the Department in a system of records, in accordance with the Privacy Act of 1974, as amended, 5 U.S.C. 552a (''Privacy Act''). This subpart describes the procedures by which individuals can be notified if a Department system of records contains records about themselves, may request access to records about themselves

maintained in a Department system of records, may request amendment or correction of records about themselves maintained in a Department system of records, and may request an accounting of disclosures of records about themselves maintained in a Department system of records. This subpart also establishes other procedures on the appropriate maintenance of records by the Department and when Privacy Act exemptions may apply. This subpart should be read together with the Privacy Act, which provides additional information about records maintained in agency systems of records, including those of the Department.

(2) This subpart contains the procedures that the Department follows when handling covered records maintained by the Department in a system of records, in accordance with the Judicial Redress Act of 2015, 5 U.S.C. 552a note (''Judicial Redress Act''). This subpart should be read together with the Privacy Act and the Judicial Redress Act, which provide additional information about covered records maintained in agency systems of records, including those of the Department.

(3) This subpart contains the procedures that the Department follows when collecting, using, maintaining, or disclosing Social Security account numbers, in accordance with the Privacy Act and the Social Security Number Fraud Prevention Act of 2017, 42 U.S.C. 405 note (''Social Security Number Fraud Prevention Act''). This subpart should be read together with the Privacy Act and the Social Security Number Fraud Prevention Act, which provide additional information about agencies' maintenance of Social Security account numbers, including that of the Department.

(b) *Relationship to the Freedom of Information Act.* The Department also processes Privacy Act requests for access to records under the Freedom of Information Act (FOIA), 5 U.S.C. 552, following the rules contained in subpart A of this part, which gives requesters the benefits of both statutes.

(c) *Definitions.* In addition to the definitions found under 5 U.S.C. 552a(a), and section (2)(h) of the Judicial Redress Act, as used in this subpart:

Component means each separate bureau, office, board, division, commission, service, or administration of the Department.

Privacy Act request for access means a request made in accordance with 5 U.S.C. 552a(d)(1), and includes requests for a Privacy Act access appeal, in accordance with this subpart.

Privacy Act request for amendment or correction means a request made in accordance with 5 U.S.C. 552a(d)(2)–(4), and includes requests for a Privacy Act amendment or correction appeal, in accordance with this subpart.

Privacy Act request for an accounting means a request made in accordance with 5 U.S.C. 552a(c)(3).

Requester means an individual who makes a Privacy Act request for access, a Privacy Act request for amendment or correction, a Privacy Act request for an accounting, or, as provided by the Judicial Redress Act, a covered person who makes either a Privacy Act request for access or a Privacy Act request for amendment or correction to covered records.

System of Records Notice means the notice(s) published by the Department in the **Federal Register** upon the establishment or modification of a system of records describing the existence and character of the system of records. A System of Records Notice (''SORN'') may be composed of a single **Federal Register** notice addressing all of the required elements that describe the current system of records, or it may be composed of multiple **Federal Register** notices that together address all of the required elements.

(d) *Authority to request records for a law enforcement purpose.* The head of a component or a United States Attorney, or either's designee, is authorized to make written requests under 5 U.S.C. 552a(b)(7), for records maintained by other agencies that are necessary to carry out an authorized law enforcement activity. The request must specify the particular portion desired and the law enforcement activity for which the record is sought.

(e) *Judicial Redress Act application.* (1) With respect to covered records, the Judicial Redress Act authorizes a covered person to bring a civil action against the Department and obtain civil remedies, in the same manner, to the same extent, and subject to the same limitations, including exemptions and exceptions, as an individual may bring a civil action and obtain civil remedies with respect to records under 5 U.S.C. 552a(g)(1)(A), (B).

(2) To the extent consistent with the Judicial Redress Act, when making a request for access, amendment, or correction to a covered record, a covered person must follow the procedures outlined in this subpart for making a Privacy Act request for access to a covered record, or a Privacy Act request for amendment or correction of a covered record. A covered person must exhaust the administrative remedies, as outlined in this subpart, before the covered person may bring a cause of action described in paragraph (e)(1) of this section.

(f) *Providing written consent to disclose records protected under the Privacy Act.* The Department may disclose any record contained in a system of records by any means of communication to any person, or to another agency, pursuant to a written request by, or with the prior written consent of, the individual about whom the record pertains. An individual must verify the individual's identity in the same manner as required by § 16.41(d) when providing written consent to disclose a record protected under the Privacy Act and pertaining to the individual.

§ 16.41 Privacy Act requests for access to records.

(a) *General information.* (1) The Department has a decentralized system for responding to Privacy Act requests for access to records, with each component designating an office to process Privacy Act requests for access to records maintained by that component. A requester may make a Privacy Act request for access to records about the requester by writing directly to the component that maintains the records. All components have the capability to receive requests electronically either through email or a web portal. The request should be sent or delivered to the component's office at the address listed in appendix I to this part, or in accordance with the access procedures outlined in the corresponding SORN. The functions of each component are summarized in part 0 of this title and in the description of the Department and its components in the United States Government Manual, which is issued annually and is available in most libraries, is available for sale from the Government Printing Office's Superintendent of Documents, and is available in electronic form at *https://www.usgovernmentmanual.gov/.*

(2) If a requester cannot determine where within the Department to send the Privacy Act request for access to records, the requester may send it by mail to the FOIA/PA Mail Referral Unit, Justice Management Division, Department of Justice, 950 Pennsylvania Avenue NW, Washington, DC 20530–0001; by email to *MRUFOIA.Requests@usdoj.gov;* or by fax to (202) 616–6695. The Mail Referral Unit will forward the request to the component(s) it believes most likely to have the requested records. For the quickest possible handling, the requester should mark both the request letter and the envelope ''Privacy Act Access Request.''

(b) *Description of records sought.* Requesters must describe the records sought in sufficient detail to enable Department personnel to locate the applicable system of records containing them with a reasonable amount of effort. To the extent possible, requesters should include specific information that may assist a component in identifying the requested records, such as the name or identifying number of each system of records in which the requester believes the records are maintained, or the date, title, name, author, recipient, case number, file designation, reference number, or subject matter of the record. The Department publishes SORNs in the **Federal Register** that describe the type and categories of records maintained in Department-wide and component-specific systems of records. Department SORNs may be found in published issues of the **Federal Register** and a list is available at *https://www.justice.gov/opcl/doj-systems-records.* Requesters may also request the record in a particular form or format.

(c) *Agreement to pay fees.* A Privacy Act request for access may specify the amount of fees that the requester is willing to pay in accordance with § 16.49. The component responsible for responding to the request shall confirm this agreement in an acknowledgement letter, in accordance with § 16.43.

(d) *Verification of identity.* (1) A requester must verify the requester's identity when making a Privacy Act request for access. The requester must state the requester's full name, current address, and date and place of birth. The requester must:

(i) Sign the request, and the signature must either be notarized or submitted by the requester under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization; or

(ii) When available, use one of the Department's approved digital services, as indicated on the Department's Privacy Act Request web page, to verify the identity of the requester through identity proofing and authentication processes.

(2) While no specific form is required, the requester may obtain forms for this purpose from the FOIA/PA Mail Referral Unit, Justice Management Division, Department of Justice, 950 Pennsylvania Avenue NW, Washington, DC 20530–0001, or obtain the form at *https://www.justice.gov/oip/doj-reference-guide-attachment-d-copies-forms.*

(3) To help identify and locate requested records, a requester may also include, at the requester's option, any additional identifying information which may be helpful in identifying and locating the requested records. Components shall establish appropriate administrative, technical, and physical safeguards to ensure the security and confidentiality of information provided by the requester, and to protect against any anticipated threats, in accordance with § 16.51.

(e) *Verification of guardianship.* (1) The parent of a minor, or the legal guardian of an individual who has been declared incompetent due to physical or mental incapacity or age by a court of competent jurisdiction, is permitted to act on behalf of the individual. In order for a parent of a minor or the legal guardian of an individual to make a Privacy Act request for access on behalf of the individual, the parent or legal guardian must establish:

(i) The identity of the individual who is the subject of the request, by stating the name, current address, date and place of birth, and, at the parent or legal guardian's option, any additional identifying information that may be helpful in identifying and locating the requested records;

(ii) The parent or legal guardian's own identity, as required in paragraph (d) of this section;

(iii) Proof of parentage or legal guardianship, which may be proven by providing a copy of the individual's birth certificate or by providing a court order establishing legal guardianship; and

(iv) That the parent or legal guardian is acting on behalf of that individual in making the request.

(2) Components shall establish appropriate administrative, technical, and physical safeguards to ensure the security and confidentiality of information provided by the parent or legal guardian, and to protect against any anticipated threats, in accordance with § 16.51.

§ 16.42 Responsibility for responding to Privacy Act requests for access to records.

(a) *In general.* Except as stated in paragraphs (c) through (f) of this section, the component that first receives a Privacy Act request for access is the component responsible for responding to the request. In determining which records are responsive to a request, a component ordinarily will include only those records it maintained as of the date the component begins its search. If any other date is used, the component shall inform the requester of that date.

(b) *Authority to grant or deny requests.* The head of a component, or the component head's designee, is authorized to grant or deny any Privacy Act request for access to records maintained by that component.

(c) *Re-routing of misdirected requests.* When a component's FOIA/Privacy Act office determines that a request was misdirected within the Department, the receiving component's FOIA/Privacy Act office shall route the request to the FOIA/Privacy Act office of the proper component(s).

(d) *Consultations, referrals, and coordination.* When a component receives a Privacy Act request for access to a record in its possession, it shall determine whether another component, or another agency of the Federal Government, is better able to determine whether the record is exempt from access under the Privacy Act. If the receiving component determines that it is best able to process the record in response to the request, then it shall do so. If the receiving component determines that it is not best able to process the record, then it shall follow the consultation, referral, and coordination procedures under § 16.4, subject to the requirements in this section. Components may make agreements with other components or agencies to eliminate the need for consultations or referrals for particular types of records.

(e) *Consultations, referrals, and coordination concerning law enforcement information.* When a component receives a Privacy Act request for access to a record in its possession containing information that relates to an investigation of a possible violation of law and that originated with another component or agency of the Federal Government, the receiving component shall either refer the responsibility for responding to the request regarding that information to that other component or agency or shall consult with that other component or agency.

(f) *Consultations, referrals, and coordination concerning classified information.* (1) When a component receives a Privacy Act request for access to a record containing information that has been classified or may be appropriate for classification by another component or agency under any applicable Executive order concerning the classification of records, the receiving component shall consult with or refer the responsibility for responding to the request regarding that information to the component or agency that classified the information, or that should consider the information for classification.

(2) When a component receives a Privacy Act request for access to a record containing information that has

been derivatively classified, the receiving component shall consult with or refer the responsibility for responding to that portion of the request to the component or agency that classified the underlying information.

§ 16.43 Responses to a Privacy Act request for access to records.

(a) *In general.* Components should, to the extent practicable, communicate with requesters who have access to the internet using electronic means, such as through email or a web portal. A component shall honor a requester's preference for receiving a record in a particular form or format where it is readily reproducible by the component in the form or format requested.

(b) *Acknowledgement of requests.* The component responsible for responding to the request must acknowledge, in writing, receipt of a Privacy Act request for access. A component shall initially respond to the requester by acknowledging the Privacy Act request for access, assigning the request an individualized tracking number, and, if applicable, confirming, in writing, the requester's agreement to pay fees in accordance with § 16.49.

(c) *Timing of responses to a Privacy Act request for access.* (1) Components ordinarily will respond to Privacy Act requests for access according to their order of receipt. The response time will commence on the date that the request is received by the proper component's office designated to receive requests, but in any event not later than ten (10) working days after the request is first received by any component's office designated by this subpart to receive requests.

(2) A component may designate multiple processing tracks that distinguish between simple and more complex Privacy Act requests for access, based on the estimated amount of work or time needed to process the request. Among the factors a component may consider are the number of pages involved in processing the request and the need for consultations or referrals. Components may advise requesters of the track into which their request falls and, when appropriate, may offer requesters an opportunity to narrow their request so that it can be placed in a different processing track.

(d) *Granting a Privacy Act request for access.* Once a component makes a determination to grant a Privacy Act request for access, in whole or in part, it shall notify the requester in writing. The component shall inform the requester in the notice of any fee charged under § 16.49 and shall disclose records to the requester promptly on payment of any applicable fee.

(e) *Adverse determination to a Privacy Act request for access.* A component that makes an adverse determination to a Privacy Act request for access, in whole or in part, shall notify the requester of the adverse determination in writing. An adverse determination to a Privacy Act request for access includes a determination by the component that: the request did not reasonably describe the record sought; the information requested is not a record subject to the Privacy Act; the requested record is not maintained in a system of records; the requested record is exempt, in whole or in part, from a Privacy Act request for access under applicable exemption(s); the requested record does not exist, cannot be located, or has been destroyed; the record is not readily reproducible in a comprehensible form; or there is a matter regarding disputed fees.

(f) *Content of adverse determination response.* An adverse determination to a Privacy Act request for access, in whole or in part, shall be signed by the head of the component, or the component head's designee, and shall include:

(1) The name and title or position of the person responsible for the adverse determination to the Privacy Act request for access;

(2) A brief statement of the reason(s) for the adverse determination to the Privacy Act request for access, including any Privacy Act exemption(s) applied by the component;

(3) An estimate of the volume of any records or information withheld, if applicable, such as the number of pages or some other reasonable form of estimation, although such an estimate is not required if the volume is otherwise indicated or if providing an estimate would harm an interest protected by an applicable exemption; and

(4) A statement that the adverse determination to the Privacy Act request for access may be appealed under § 16.45 and a description of the requirements set forth in § 16.45.

§ 16.44 Classified information.

In processing a Privacy Act request for access, a Privacy Act request for amendment or correction, or a Privacy Act request for accounting, in which information is classified under any applicable Executive order concerning the classification of records, to the extent the requester lacks the appropriate security clearance and fails otherwise to meet all requirements to access the classified record or information, the originating component shall review the information in the record to determine whether it should remain classified. Information determined to no longer require classification shall be de-classified and the record evaluated for an appropriate release to the requester, subject to any applicable exemptions or exceptions. On receipt of any appeal involving classified information, the official responsible for adjudicating the appeal shall take appropriate action to ensure compliance with part 17 of this title.

§ 16.45 Privacy Act access appeals.

(a) *Requirement for making a Privacy Act access appeal.* A requester may appeal an adverse determination to a Privacy Act request for access to the Office of Information Policy (''OIP''). The contact information for OIP is contained in the FOIA Reference Guide, which is available at *https://www.justice.gov/oip/04_3.html.* Appeals may also be submitted through the web portal accessible on OIP's website. Examples of an adverse determination to a Privacy Act request for access are provided in § 16.43. The requester must make the appeal in writing. To be considered timely, the requester must postmark, or in the case of electronic submissions, submit the request, within 90 calendar days after the date of the adverse determination. The appeal should indicate the assigned request number and clearly identify the component's determination that is being appealed. To facilitate handling, the requester should mark both the appeal letter and envelope, or include in the subject line of any electronic communication, ''Privacy Act Access Appeal.''

(b) *Adjudication of Privacy Act access appeals.* (1) The Director of OIP, or a designee of the Director of OIP, shall act on behalf of the Attorney General on all Privacy Act access appeals under this section, unless the Attorney General directs otherwise.

(2) Should the Attorney General exercise the right to respond to a Privacy Act request for access, the Attorney General's decision shall serve as the final action of the Department and will not be subject to a Privacy Act access appeal.

(3) A Privacy Act access appeal ordinarily will not be adjudicated if the request becomes a matter of litigation.

(c) *Responses to Privacy Act access appeals.* (1) OIP shall make its decision on an appeal in writing.

(2) A decision that upholds a component's adverse determination to the Privacy Act request for access, in whole or in part, shall include a brief statement of the reason(s) for the affirmance, including any Privacy Act

exemption applied, and shall provide the requester with notification of the statutory right to file a lawsuit.

(3) A decision that reverses or modifies, in whole or in part, a component's adverse determination to the Privacy Act request for access shall include notice to the requester of the specific reversal or modification. The component(s) shall thereafter further process the request, in accordance with the appeal decision, and respond directly to the requester, as appropriate.

(d) *When a Privacy Act access appeal is required.* Before seeking review by a court of a component's refusal to grant a Privacy Act request for access, a requester generally must first submit a timely appeal in accordance with this section.

§ 16.46 Privacy Act requests for amendment or correction.

(a) *Requirements for making a Privacy Act request for amendment or correction.* Unless the record is not subject to amendment or correction, as stated in paragraph (i) of this section, individuals may make a Privacy Act request for amendment or correction of a Department record about themselves. Requesters must write directly to the Department component that maintains the record. A Privacy Act request for amendment or correction shall identify each particular record in question, state the amendment or correction that the requester would like to make, and state why the requester believes the record is not accurate, relevant, timely, or complete. Requesters may submit any documentation that would be helpful in determining the accuracy, relevance, timeliness, or completeness of the record. If the requester believes that the same record is in more than one Department system of records, the requester should address the request to each component that the requester believes maintains the record. For the quickest possible handling, requesters should mark both their request letter and envelope ''Privacy Act Amendment Request.'' Components and requesters must otherwise follow the procedures and responsibilities set forth in §§ 16.41 and 16.42.

(b) *Timing of responses to a Privacy Act request for amendment or correction.* (1) Components responsible for responding to a Privacy Act request for amendment or correction must acknowledge, in writing, receipt of the request no later than ten (10) working days after receipt.

(2) Components must promptly respond to a Privacy Act request for amendment or correction. Components ordinarily will respond to Privacy Act requests for amendment or correction according to their order of receipt. The response time will commence on the date that the request is received by the proper component's office designated to receive requests, but in any event no later than ten (10) working days after the request is first received by any component's office designated by this subpart to receive requests.

(3) A component may designate multiple processing tracks that distinguish between simple and more complex Privacy Act requests for amendment or correction, based on the estimated amount of work or time needed to process the request. Among the factors a component may consider are the number of pages involved in processing the request and the need for consultations or referrals. Components may advise requesters of the track into which their request falls and, when appropriate, may offer requesters an opportunity to narrow their request so that it can be placed in a different processing track.

(c) *Granting a Privacy Act request for amendment or correction.* If a component grants a Privacy Act request for amendment or correction, in whole or in part, it shall notify the requester in writing. The component shall describe the amendment or correction made and shall advise the requester of the requester's right to obtain a copy of the corrected or amended record, in accordance with the Privacy Act right of access procedures described in §§ 16.41 through 16.45.

(d) *Adverse determination to a Privacy Act request for amendment or correction.* A component that makes an adverse determination to a Privacy Act request for amendment or correction, in whole or in part, shall notify the requester of the determination in writing. An adverse determination to a Privacy Act request for amendment or correction includes a decision by the component that: the information at issue is not a record as defined by the Privacy Act; the requested record is not subject to amendment or correction as stated in paragraph (i) of this section; the request does not reasonably describe the records sought or the amendment or correction to that record; the record at issue does not exist, cannot be located, has been destroyed, or otherwise cannot be amended or corrected; or the record is maintained with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness in any determination about the individual about whom the record pertains.

(e) *Content of adverse determination response.* An adverse determination to a Privacy Act request for amendment or correction, in whole or in part, shall be signed by the head of the component, or the component head's designee, and shall include:

(1) The name and title or position of the person responsible for the adverse determination to the Privacy Act request for amendment or correction;

(2) A brief statement of the reason(s) for the adverse determination to the Privacy Act request for amendment or correction, including any Privacy Act exemption(s) applied by the component; and

(3) A statement that the adverse determination to the Privacy Act request for amendment or correction may be appealed under paragraph (f) of this section and a description of the requirements set forth in paragraph (f).

(f) *Privacy Act amendment appeals.* (1) A requester may appeal an adverse determination to a Privacy Act request for amendment or correction, in whole or in part, to the Office of Privacy and Civil Liberties (''OPCL''). The contact information for OPCL is available at *https://www.justice.gov/privacy.* The requester must make the appeal in writing. To be considered timely, the requester must postmark the appeal request, or in the case of electronic submissions, submit the appeal request, within 90 calendar days after the date of the component's refusal to grant a Privacy Act request for amendment or correction. The appeal should indicate the assigned request number and clearly identify the component's determination that is being appealed. To facilitate handling, the requester should mark both the appeal letter and envelope, or include in the subject line of the electronic transmission, ''Privacy Act Amendment Appeal.''

(2) The Chief Privacy and Civil Liberties Officer (''CPCLO''), or a designee of the CPCLO, will act on behalf of the Attorney General on all Privacy Act amendment appeals under this section, unless otherwise directed by the Attorney General.

(3) A Privacy Act amendment appeal ordinarily will not be adjudicated if the request becomes a matter of litigation.

(4) A decision on a Privacy Act amendment appeal must be made in writing. A decision that upholds a component's adverse determination to a Privacy Act request for amendment or correction, in whole or in part, shall include a brief statement of the reason(s) for the affirmance, including any Privacy Act exemption applied, whether the requester has a right to file a Statement of Disagreement, as described in paragraph (g) of this section, and the requester's statutory right to file a

lawsuit. A decision that reverses or modifies a component's adverse determination to a Privacy Act request for amendment or correction, in whole or in part, shall notify the requester of the specific reversal or modification. The component shall thereafter further process the request, in accordance with the appeal decision, and respond directly to the requester, as appropriate.

(g) *Statement of Disagreement.* If a request is subject to a Privacy Act request for amendment or correction, but the component's adverse determination to a Privacy Act request for amendment or correction is upheld, in whole or in part, the requester has the right to file a Statement of Disagreement that states the requester's reason(s) for disagreeing with the Department's refusal to grant the requester's Privacy Act request for amendment or correction. Statements of Disagreement must be concise, must clearly identify each part of any record that is disputed, and should be no longer than one typed page for each fact disputed. A Statement of Disagreement must be sent to the component involved, which shall place it in the system of records in which the disputed record is maintained so that the Statement of Disagreement supplements the disputed record. The component shall mark the disputed record to indicate that a Statement of Disagreement has been filed and where in the system of records it may be found.

(h) *Notification of amendment, correction, or Statement of Disagreement.* Within thirty (30) working days of the amendment or correction of a record, the component that maintains the record shall notify all persons, organizations, or agencies to which it previously disclosed the record, if an accounting of that disclosure was made, that the record has been amended or corrected. If an individual has filed a Statement of Disagreement, the component shall append a copy of it to the disputed record whenever the record is disclosed. The component may also append a concise statement of its reason(s) for denying the Privacy Act request for amendment or correction of the record.

(i) *Records not subject to amendment or correction.* The following records are not subject to amendment or correction:

(1) Copies of court records;

(2) Transcripts of testimony given under oath or written statements made under oath;

(3) Transcripts of grand jury proceedings, judicial proceedings, or quasi-judicial proceedings, which are the official record of those proceedings;

(4) Presentence reports, and other records pertaining directly to such reports originating with the courts;

(5) Records in a system of records that have been exempted from amendment and correction, pursuant to 5 U.S.C. 552a(j) or (k), through the applicable regulations in this subpart; and

(6) Records not maintained in a system of records.

§ 16.47 Privacy Act requests for an accounting of record disclosures.

(a) *Requirements for making a Privacy Act request for accounting of record disclosures.* Except where accountings of disclosures are not required to be kept as stated in paragraph (c) of this section, individuals may make a Privacy Act request for an accounting of record disclosures about themselves that have been made by the Department to another person, organization, or agency. This accounting contains the date, nature, and purpose of each disclosure, as well as the name and address of the person, organization, or agency to which the disclosure was made. If the requester believes that the same record is in more than one system of records, the requester should address their request to each component that the requester believes maintains the record. For the quickest possible handling, requesters should mark both their request letters and envelopes ''Privacy Act Accounting Request.'' Requests must otherwise follow the procedures in § 16.41.

(b) *Processing Privacy Act requests for an accounting of record disclosures.* Unless otherwise specified in this section, components shall process Privacy Act requests for accountings of record disclosures following the procedures in §§ 16.42 and 16.43.

(c) *Where accountings of record disclosures are not required.* Components are not required to provide Privacy Act accountings of record disclosures to a requester in cases in which they relate to:

(1) Disclosures of information not subject to the Privacy Act;

(2) Disclosures of records not maintained in a system of records;

(3) Disclosures of records maintained in a system of records for which accountings are not required to be kept, including disclosures to those officers and employees of the Department who have a need for the record in the performance of their duties, 5 U.S.C. 552a(b)(1), or disclosures that are required under the FOIA, 5 U.S.C. 552a(b)(2);

(4) Disclosures made to law enforcement agencies for authorized law enforcement activities in response to written requests from those law enforcement agencies specifying the law enforcement activities for which the disclosures are sought; or

(5) Disclosures made from systems of records that have been exempted from the accounting of record disclosure requirements pursuant to the Privacy Act, 5 U.S.C. 552a(j) or (k), through the applicable regulations in this subpart.

(d) *Appeals.* A requester may appeal a component's refusal to grant a Privacy Act request for an accounting of record disclosures in the same manner, and under the same procedures, as a Privacy Act access appeal, as set forth in § 16.45.

§ 16.48 Preservation of records.

Each component shall preserve all correspondence pertaining to the requests that it receives under this subpart, as well as copies of all requested records, until disposition or destruction is authorized by title 44 of the United States Code or by the National Archives and Records Administration's General Records Schedule 4.2. Records shall not be disposed of while they are the subject of a pending request, appeal, or lawsuit under the Privacy Act.

§ 16.49 Fees.

Components shall charge fees for duplication of records under the Privacy Act in the same way in which they charge duplication fees for responding to FOIA requests under § 16.10. No search or review fee may be charged for any record unless the record has been exempted from access pursuant to exemptions enumerated in the Privacy Act, 5 U.S.C. 552a(j)(2) or (k)(2).

§ 16.50 Notice of compulsory legal process and emergency disclosures.

(a) *Legal process disclosures.* Components shall make reasonable efforts to provide notice to an individual whose record is disclosed under compulsory legal process, such as an order by a court of competent jurisdiction, and such process becomes a matter of public record. Notice shall be given within a reasonable time after the component's receipt of process, except that in a case in which such process is not a matter of public record, the notice shall be given within a reasonable time only after such process becomes public. Where an individual, or the individual's legal counsel, has not otherwise received notice of the disclosure in the litigation process, notice shall be mailed to the individual's last known address and shall contain a copy of such process and a description of the information disclosed. Notice shall not be required if disclosure is made from a system of

records that has been exempted from the notice requirement.

(b) *Emergency disclosures.* Upon disclosing a record pertaining to an individual made under compelling circumstances affecting health or safety, the component shall notify that individual of the disclosure. This notice shall be mailed to the individual's last known address and shall state the nature of the information disclosed; the person, organization, or agency to which it was disclosed; the date of disclosure; and the compelling circumstances justifying the disclosure.

§ 16.51 Security of systems of records.

(a) Each component shall establish and maintain administrative, technical, and physical controls consistent with applicable Department and Government-wide laws, regulations, policies, and standards, to ensure the security and confidentiality of records, and to protect against reasonably anticipated threats or hazards to their security or integrity, including against any reasonably anticipated unauthorized access, use, or disclosure, which could result in substantial harm, embarrassment, inconvenience, or unfairness to individuals about whom information is maintained. The stringency of these controls shall correspond to the sensitivity of the records that the controls protect. At a minimum, each component shall maintain administrative, technical, or physical controls to ensure that:

(1) Records are protected from unauthorized access, including unauthorized public access;

(2) The physical area in which records are maintained is supervised or appropriately secured to prevent unauthorized persons from having access to them;

(3) Records are protected from damage, loss, or unauthorized alteration or destruction; and

(4) Records are not disclosed to unauthorized persons or to authorized persons for unauthorized purposes in either oral or written form.

(b) Each component shall establish procedures that restrict access to records to only those individuals within the Department who must have access to those records in order to perform their duties and that prevent inadvertent disclosure of records.

(c) The CPCLO, or a designee of the CPCLO, may impose additional administrative, technical, or physical controls to protect records in consultation with the Chief Information Officer and the Director of the Office of Records Management Policy.

§ 16.52 Contracts for the operation of record systems.

(a) Any approved contract for the operation of a system of records shall contain the standard contract terms and conditions in accordance with the Federal Acquisition Regulations in 48 CFR chapter 28 and may also contain additional privacy-related terms and conditions to ensure compliance with the requirements of the Privacy Act for that system of records. The contracting component will be responsible for ensuring that the contractor complies with these contract requirements.

(b) The CPCLO, a designee of the CPCLO, or contracting components may impose additional contract requirements to further protect records.

§ 16.53 Use and collection of Social Security account numbers.

(a) *Purpose and scope.* This section contains the rules that the Department of Justice follows in handling Social Security account numbers in accordance with section 7 of the Privacy Act, and with the Social Security Fraud Prevention Act.

(b) *Definitions.* For the purposes of this section:

Mail means any physical package sent to entities or individuals outside the Department through the United States Postal Service or any other express mail carrier; and

Necessary includes only those circumstances in which a component would be unable to comply, in whole or in part, with a legal, regulatory, or policy requirement if prohibited from mailing the full Social Security account number. Including the full Social Security account number of an individual on a document sent by mail is not ''necessary'' if a legal, regulatory, or policy requirement could be satisfied by either partially redacting the Social Security account number in accordance with paragraph (d)(3) of this section, or entirely removing the Social Security account number.

(c) *Denial of rights, benefits, or privileges.* Components are prohibited from denying any right, benefit, or privilege provided by law to an individual because of such individual's refusal to disclose the individual's Social Security account number. This paragraph (c) shall not apply with respect to:

(1) Any disclosure that is required by Federal statute; or

(2) The disclosure of a Social Security account number to any Federal, State, or local agency maintaining a system of records in existence and operating before January 1, 1975, if such disclosure was required under statute or regulation adopted prior to such date to verify the identity of an individual.

(d) *Restriction of Social Security account numbers on documents sent by mail.* (1) A component shall not include the full Social Security account number of an individual on any document sent by mail, unless the inclusion of the Social Security account number on the document is necessary. Unless the Attorney General directs otherwise, the CPCLO is authorized to assist components in implementing this paragraph (d), including determining whether inclusion of the Social Security account number on a document sent by mail is necessary.

(2) If the use of the full Social Security account number on a document sent by mail is necessary, the component sending the document shall implement appropriate administrative, technical, and physical safeguards to ensure a reasonable level of security against unauthorized access to, and use, disclosure, disruption, modification, or destruction of, the documents sent by mail.

(3) Where feasible, components should partially redact the Social Security account number on any document sent by mail by including no more than the last four digits of the Social Security account number. Components should prioritize technical methods to redact Social Security account numbers.

(4) Components are prohibited from placing a Social Security account number, whether full or partially redacted, on the outside of any mail.

(e) *Employee awareness.* Each component shall ensure that employees authorized to collect Social Security account numbers are made aware of the following:

(1) The requirements of paragraphs (c) and (d) of this section;

(2) That individuals requested to provide their Social Security account numbers must be informed of:

(i) Whether providing Social Security account numbers is mandatory or voluntary;

(ii) Any statutory or regulatory authority that authorizes the collection of Social Security account numbers; and

(iii) The uses that will be made of the Social Security account numbers; and

(3) That the Department may have other regulations or polices regulating the use, maintenance, or disclosure of Social Security account numbers by which employees must abide.

§ 16.54 Employee standards of conduct.

Each component shall inform its employees and any contractors involved in developing or maintaining a system

of records of the provisions of the Privacy Act, including the Privacy Act's civil liability and criminal penalty provisions. Unless otherwise permitted by law, employees and contractors of the Department shall:

(a) Collect from individuals only the information that is relevant and necessary to discharge the responsibilities of the Department;

(b) Collect information about an individual directly from that individual whenever practicable;

(c) Inform each individual asked to supply information for a record pertaining to that individual of:

(1) The legal authority to collect the information and whether providing it is mandatory or voluntary;

(2) The principal purpose for which the Department intends to use the information;

(3) The routine uses the Department may make of the information; and

(4) The effects on the individual, if any, of not providing the information;

(d) Ensure that the component maintains no system of records without public notice and that it notifies appropriate Department officials of the existence or development of any system of records that is not the subject of a current or planned public notice;

(e) Maintain all records that are used by the Department in making any determination about an individual with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to ensure fairness to the individual in the determination;

(f) Except as to disclosures made to an agency or made under the FOIA, make reasonable efforts, prior to disseminating any record about an individual, to ensure that the record is accurate, relevant, timely, and complete;

(g) Maintain no record describing how an individual exercises the individual's First Amendment rights, unless maintaining the record is expressly authorized by statute or by the individual about whom the record is maintained, or is pertinent to and within the scope of an authorized law enforcement activity;

(h) When required by the Privacy Act, maintain an accounting in the specified form of all disclosures of records by the Department to persons, organizations, or agencies;

(i) Maintain and use records with care to prevent the loss or the unauthorized or inadvertent disclosure of a record to anyone;

(j) Notify the appropriate Department official of any record that contains information that the Privacy Act does not permit the Department to maintain; and

(k) Read, acknowledge, and agree to abide by the Department of Justice rules of behavior for accessing, collecting, using, and maintaining Department information.

§ 16.55 Other rights and services.

Nothing in this subpart shall be construed to entitle any person, as of right, to any service or to the disclosure of any record to which such person is not entitled under the Privacy Act, the Social Security Fraud Reduction Act, or the Judicial Redress Act.

■ 3. Amend appendix I to part 16 by revising the first two paragraphs to read as follows:

Appendix I to Part 16—Components of the Department of Justice

Please consult Attachment B of the Department of Justice FOIA Reference Guide for the contact information and a detailed description of the types of records maintained by each Department component. The FOIA Reference Guide is available at *https://www.justice.gov/oip/department-justice-freedom-information-act-reference-guide* or upon request to the Office of Information Policy (OIP).

The Department component offices, and any component-specific requirements, for making a FOIA or Privacy Act request are listed in this appendix. The Certification of Identity form, available at *https://www.justice.gov/oip/doj-reference-guide-attachment-d-copies-forms,* may be used by individuals who are making requests for records pertaining to themselves. For each of the six components marked with an asterisk, FOIA and Privacy Act requests for access must be sent to OIP, which handles initial requests for those six components.

* * * * *

Dated: November 22, 2022.

Merrick B. Garland,

Attorney General.

[FR Doc. 2022–27960 Filed 1–5–23; 8:45 am]

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CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

45 CFR Parts 2525, 2526, 2527, 2528, 2529, and 2530

RIN 3045–AA66

National Service Trust Education Awards

AGENCY: Corporation for National and Community Service.

ACTION: Proposed rule with request for comments.

SUMMARY: The Corporation for National and Community Service (operating as AmeriCorps) proposes to revise its National Service Trust regulations. The National Service Trust is an account from which AmeriCorps pays education awards to eligible AmeriCorps participants and interest on qualified student loans for AmeriCorps participants during their terms of service in approved national service positions. This proposed rule would improve the clarity of regulations applicable to education awards through use of consistent terminology and more transparent procedures for extensions, transfers, and revocations of education awards, and would increase flexibility for those who earn education awards to use and transfer those awards. This proposed rule would also renumber sections related to national service education awards to combine them all into one CFR part with subpart designations for easier navigation.

DATES: Comments must reach AmeriCorps on or before March 7, 2023.

ADDRESSES: You may submit comments by any of the following methods:

(1) Electronically through *www.regulations.gov*;

(2) By mail sent to: AmeriCorps, Attention: Elizabeth Appel, 250 E Street SW, Washington, DC 20525; or

(3) By hand delivery or by courier to the AmeriCorps mailroom at the address above between 9 a.m. and 4 p.m. Eastern Time, Monday through Friday, except Federal holidays.

Comments submitted in response to this proposed rule will be made available to the public through *www.regulations.gov*. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. If you send an email comment, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. Please note that responses to this public comment request containing any routine notice about the confidentiality of the communication will be treated as public comments that may be made available to the public notwithstanding the inclusion of the routine notice.

Comments on the Paperwork Reduction Act information collections contained in this document are separate from comments on the substance of the rulemaking. Send your comments and suggestions on the information collection requirements to the Desk Officer for the Department of the Interior at OMB–OIRA at (202) 395–5806 (fax) or *OIRA_Submission@omb.eop.gov* (email). Please provide a copy of your comments to *eappel@cns.gov*.

FOR FURTHER INFORMATION CONTACT: Elizabeth Appel, Associate General Counsel, AmeriCorps, 250 E Street SW, Washington, DC 20525, (202) 967–5070, *eappel@cns.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

The National and Community Service Act of 1990, as amended, 42 U.S.C. 12501 *et seq.,* aims to encourage U.S. citizens to engage in national service and to expand educational opportunity by rewarding individuals who participate in national service with an increased ability to pursue higher education or job training. Specifically, the Act establishes the National Service Trust, and authorizes AmeriCorps to use funds from that Trust to provide education awards to eligible individuals who have fulfilled a term of service in an approved national service position and meet other applicable requirements. AmeriCorps' regulations implementing the Act are at 45 CFR parts 2525 through 2530 and address the National Service Trust (the Trust), who is eligible to receive education awards from the Trust, how the amount of the education awards is determined, the purposes for which the education awards may be used, the circumstances under which AmeriCorps participants will receive forbearance and payment of interest expenses on qualified student loans, and the circumstances in which participants may transfer their educational awards.

II. Overview of Proposed Changes

Overall, this proposed rule is intended to improve clarity of the regulations through use of consistent terminology and plain language, improve the transparency of the criteria and procedures for extensions, transfers, and revocations of education awards, and increase flexibility for those who earn education awards to use and transfer those awards. To meet these objectives, this proposed rule would make changes to the following CFR parts:

- Part 2525—National Service Trust: Purpose and Definitions
- Part 2526—Eligibility for an Education Award
- Part 2527—Determining the Amount of an Education Award
- Part 2528—Using an Education Award
- Part 2529—Payment of Accrued Interest
- Part 2530—Transfer of an Education Award

Some proposed changes would apply to all these CFR parts, including updating references to the Corporation for National and Community Service to refer to it by its operating name, AmeriCorps, rather than ''the Corporation,'' and replacing specific mention of AmeriCorps programs, Silver Scholar, and Summer of Service positions with the term ''national service position,'' where appropriate. Other proposed changes would affect only one or some CFR parts. Substantive proposed changes specific to each CFR part are summarized here.

The proposed rule would also renumber sections, combining these CFR parts into one resulting CFR part, at part 2525, with different subparts. Combining these CFR parts into one allows readers to find regulations on education awards in a single CFR part, which improves navigability and prevents readers from having to switch back and forth between CFR parts for relevant provisions (for example, to refer back to part 2525 for definitions that apply to later CFR parts).

A. Renumbering To Combine Provisions Into One CFR Part

The proposed rule would renumber the provisions that currently appear in parts 2526 through 2530 to move them into part 2505, so that the regulatory provisions regarding the National Service Trust education awards can be found in one central CFR part. The following table shows where the provisions that fall under the current CFR parts would instead fall under subparts to part 2525.

Current	Proposed
Part 2525—National Service Trust: Purpose and Definitions	Part 2525—National Service Trust. Subpart A—Purpose and Definitions.
Part 2526—Eligibility for an Education Award	Subpart B—Eligibility for an Education Award.
Part 2527—Determining the Amount of an Education Award	Subpart C—Determining the Amount of an Education Award.
Part 2528—Using an Education Award	Subpart D—Using an Education Award.
Part 2529—Payment of Accrued Interest	Subpart E—Payment of Accrued Interest.
Part 2530—Transfer of Education Awards	Subpart F—Transfer of Education Awards.

The following table provides a more detailed comparison of where current regulatory provisions are located, and where those provisions would be located under the proposed rule. This table also shows where new subpart headings and new sections are being proposed.

Current	Proposed
Part 2525—National Service Trust: Purpose and Definitions	*Part 2525—National Service Trust.* *Subpart A—Purpose and Definitions.*
§ 2525.10 What is the National Service Trust?	§ 2525.1 What is the National Service Trust?
§ 2525.20 Definitions	§ 2525.2 Definitions.
Part 2526—Eligibility for an Education Award	*Subpart B—Eligibility for an Education Award.*
§ 2526.10 Who is eligible to receive an education award from the National Service Trust?	§ 2525.10 When can an Eligible Individual receive an education award from the National Service Trust?
§ 2526.15 Upon what basis may an organization responsible for the supervision of a national service participant certify that the individual successfully completed a term of service?	§ 2525.15 Upon what basis may an entity responsible for the supervision of an Eligible Individual certify that the Eligible Individual successfully completed a term of service?

Current	Proposed
§ 2526.20 Is an AmeriCorps participant who does not complete an originally approved term of service eligible to receive a pro-rated education award?	§ 2525.20 Is an AmeriCorps participant who does not complete an originally-approved term of service eligible to receive a pro-rated education award?
§ 2526.25 Is a participant in an approved Summer of Service position or approved Silver Scholar position who does not complete an approved term of service eligible to receive a pro-rated education award?	§ 2525.25 Is a participant in an approved Summer of Service position or approved Silver Scholar position who does not complete an approved term of service eligible to receive a pro-rated education award?
§ 2526.30 How do convictions for the possession or sale of controlled substances affect an education award recipient's ability to use their award?	§ 2525.30 How do convictions for the possession or sale of controlled substances affect an education award recipient's ability to use their award?
§ 2526.40 What is the time period during which an individual may use an education award?	§ 2525.40 How long is an education award available for use?
	§ 2525.41 When must an application for extension be submitted?
	§ 2525.42 Under what circumstances may AmeriCorps grant an extension?
	§ 2525.43 What if the request for an extension is missing information or documentation?
	§ 2525.44 How will AmeriCorps notify an Eligible Individual or Designated Recipient of its decision on the extension request?
	§ 2525.45 Can an Eligible Individual or Designated Recipient appeal a denied request for an extension to the use period?
§ 2526.50 Is there a limit on the total amount of education awards an individual may receive?	§ 2525.50 Is there a limit on the total amount of education awards an individual may receive?
§ 2526.55 What is the impact of the aggregate value of education awards received on an individual's ability to serve in subsequent terms of service?	§ 2525.55 What is the impact of the aggregate value of education awards received on an individual's ability to serve in additional terms of service?
§ 2526.60 May an individual receive an education award and related interest benefits from the National Service Trust as well as other loan cancellation benefits for the same service?	§ 2525.60 May an individual receive an education award and related interest benefits from the National Service Trust as well as other loan cancellation benefits for the same term of service?
§ 2526.70 What are the effects of an erroneous certification of successful completion of a term of service?	§ 2525.70 What are the effects of an erroneous certification of successful completion of a term of service?
Part 2527—Determining the Amount of an Education Award	*Subpart C—Determining the Amount of an Education Award.*
§ 2527.10 What is the amount of an education award?	§ 2525.100 What is the amount of an education award?
Part 2528—Using an Education Award	*Subpart D—Using an Education Award.*
§ 2528.10 For what purposes may an education award be used?	§ 2525.210 For what purposes may an education award be used?
§ 2528.20 What steps are necessary to use an education award to repay a qualified student loan?	§ 2525.220 What steps are necessary to use an education award to repay a qualified student loan?
§ 2528.30 What steps are necessary to use an education award to pay all or part of the current educational expenses at an institution of higher education?	§ 2525.230 What steps are necessary to use an education award to pay all or part of the current educational expenses at an institution of higher education?
§ 2528.40 Is there a limit on the amount of an individual's education award that the Corporation will disburse to an institution of higher education for a given period of enrollment?	§ 2525.240 Is there a limit on the amount of an Eligible Individual's education award that AmeriCorps will disburse to an institution of higher education for a given period of enrollment?
§ 2528.50 What happens if an individual withdraws or fails to complete the period of enrollment in an institution of higher education for which the Corporation has disbursed all or part of that individual's education award?	§ 2525.250 What happens if an individual withdraws or fails to complete the period of enrollment in an institution of higher education for which AmeriCorps has disbursed all or part of that individual's education award?
§ 2528.60 Who may use the education award to pay expenses incurred in enrolling in a G.I. Bill approved program?	§ 2525.260 Who may use the education award to pay expenses incurred in enrolling in a G.I. Bill-approved program?
§ 2528.70 What steps are necessary to use an education award to pay expenses incurred in enrolling in a G.I. Bill approved program?	§ 2525.270 What steps are necessary to use an education award to pay expenses incurred in enrolling in a G.I. Bill-approved program?
§ 2528.80 What happens if an individual for whom the Corporation has disbursed education award funds withdraws or fails to complete the period of enrollment in a G.I. Bill approved program?	§ 2525.280 What happens if an individual for whom AmeriCorps has disbursed education award funds withdraws or fails to complete the period of enrollment in a G.I. Bill approved program?
	§ 2525.290 What happens to an education award upon divorce or death?
Part 2529—Payment of Accrued Interest	*Subpart E—Payment of Accrued Interest.*
§ 2529.10 Under what circumstances will the Corporation pay interest that accrues on qualified student loans during an individual's term of service in an approved AmeriCorps position or approved Silver Scholar position?	§ 2525.310 Under what circumstances will AmeriCorps pay interest that accrues on qualified student loans during an individual's term of service in an approved position?
§ 2529.20 What steps are necessary to obtain forbearance in the repayment of a qualified student loan during an individual's term of service in an approved AmeriCorps position?	§ 2525.320 What steps are necessary to obtain forbearance in the repayment of a qualified student loan during an individual's term of service in an approved AmeriCorps position?
§ 2529.30 What steps are necessary for using funds in the National Service Trust to pay interest that has accrued on a qualified student loan during a term of service for which an individual has obtained forbearance?	§ 2525.330 What steps are necessary for AmeriCorps to pay interest that has accrued on a qualified student loan in forbearance?
Part 2530—Transfer of Education Awards	*Subpart F—Transfer of Education Awards.*
§ 2530.10 Under what circumstances may an individual transfer an education award?	§ 2525.410 Under what circumstances may an Eligible Individual transfer an education award?
§ 2530.20 For what purposes may a transferred award be used?	§ 2525.420 For what purposes may a transferred award be used?
§ 2530.30 What steps are necessary to transfer an education award?	§ 2525.430 What steps are necessary to transfer an education award?

Current	Proposed
§ 2530.40 Is there a limit on the number of individuals one may designate to receive a transferred award?	§ 2525.440 Is there a limit on the number of recipients an individual may designate to receive a transferred award?
§ 2530.50 Is there a limit on the amount of transferred awards a designated individual may receive?	§ 2525.450 Is there a limit on the amount of transferred education awards a Designated Recipient may receive?
§ 2530.60 What is the impact of transferring or receiving a transferred education award on an individual's eligibility to receive additional education awards?	§ 2525.460 What is the impact of transferring or receiving a transferred education award on an Eligible Individual's eligibility to receive additional education awards?
§ 2530.70 Is a designated individual required to accept a transferred education award?	§ 2525.470 Is a Designated Recipient required to accept a transferred education award?
§ 2530.80 Under what circumstances is a transfer revocable?	§ 2525.480 Under what circumstances is a transfer revocable?
§ 2530.85 What steps are necessary to revoke a transfer?	§ 2525.485 What steps are necessary to revoke a transfer?
	§ 2525.487 What happens to a transferred education award upon divorce or death?
§ 2530.90 Is a designated individual eligible for the payment of accrued interest under Part 2529?	§ 2525.490 Is the recipient of a transferred education award eligible for the payment of accrued interest for their own student loans under subpart E?

B. Part-by-Part (Proposed Subpart-by-Subpart) Summary of Proposed Changes

1. Proposed Changes to Current Part 2525 (Proposed Subpart A)

Under this proposed rule, part 2525 would be newly designated as subpart A of part 2525 and would continue to set out the description of the National Service Trust and definitions. Proposed changes would ensure that definitions apply throughout the newly compiled CFR part 2525. For example, the proposed changes would delete the phrase ''for the purposes of this section,'' for definitions of the following terms: ''AmeriCorps education award,'' ''economically disadvantaged youth,'' ''education award,'' ''G.I. Bill-approved program,'' ''Silver Scholar education award,'' and ''Summer of Service education award.''

The proposed changes to part 2525 would add definitions for two terms and substantively revise two definitions. The newly added definitions are for the following terms:

- ''Eligible Individual'' as the individual who is eligible for an education award; and
- ''Designated Recipient'' as the person to whom an education award is transferred.

The two definitions proposed for revision are for ''educational expenses'' and ''qualified student loan.'' The proposed changes would revise the definition of ''educational expenses'' to:

- Provide that costs of attendance are determined by the Title IV institution of higher education or G.I. Bill approved program;
- Include tuition or associated costs as determined by the program offered by the institution or establishment approved for offering benefits for which educational assistance may be provided by the Secretary for Veterans Affairs;
- Include expenses incurred participating in a school-to-work program approved by the Secretaries of Labor and Education;
- Delete reference to the following, because they would be included in the category of ''costs of attendance'' as determined by the institution or G.I. Bill approved program:
  - Tuition and fees ''normally assessed'' by an institution;
  - Tuition and fees for students engaged in a course of study by correspondence; and
  - Expenses related to a student's disability; and
- Delete reference to costs associated with student engagement in a work experience under a cooperative education program or course because the costs would be included in the category for expenses incurred in participating in a school-to-work program.

These changes will simplify the definition and do not affect what educational expenses an education award may be used for.

Proposed changes to the definition of ''qualified student loan'' would delete the lists of specific Federal family education loans, William D. Ford Federal direct loans, Federal Perkins loans, and Public Health Service Act loans because they are included in the broad categories set out in the proposed definition. The proposed changes would also replace the category ''any other loan designated as such by Congress'' with the more specific category of loans determined by an institution of higher education or approved veterans' benefits program to be necessary to cover a student's educational expenses and made, insured, or guaranteed by certain listed entities.

The proposed changes would also correct the cross-reference to the Higher Education Act of 1965 to cite to the correct section defining ''institution of higher education.''

Other proposed changes to this newly designed subpart A are non-substantive, such as adding the legal name of the education awards to the definition of ''education award,'' eliminating unnecessary verbiage in definitions that first state the term and then repeat the term to provide the meaning.

2. Proposed Changes to Current Part 2526 (Proposed Subpart B)

Current part 2526, which is proposed to become subpart B to part 2525, addresses eligibility for an education award.

Proposed changes to current part 2526, now proposed as subpart B to part 2525, would incorporate the newly defined terms for ''Eligible Individual'' and ''Designated Recipient'' for clarity. Edits to proposed § 2525.10 would clarify when Eligible Individuals are entitled to receive an education award, and clarify that an Eligible Individual may receive a full education award for a full-time term of service, a partial education award for a less than full-time term of service, or a pro-rated education award if the Eligible Individual was granted a release from completing the term of service for compelling personal circumstances but completed at least 15 percent of the originally approved term of service and performed satisfactorily during that time. The proposed rule would also move to a separate section (proposed § 2525.15) the specifics for what the organization responsible for the individual's supervision must certify.

Proposed § 2525.15 would combine requirements for AmeriCorps State and National approved national service positions with other approved national service positions for consistency. Proposed § 2525.20 would clarify that there is a requirement, in the cross-referenced § 2522.230(a)(3), for the program to document the basis for any determination that compelling personal

circumstances prevent the Eligible Individual from completing their term of service.

Proposed § 2525.30 would revise the factors that AmeriCorps considers when determining whether an Eligible Individual may be entitled to use his or her education award when the Eligible Individual has three or more convictions for possession or sale of a controlled substance. The proposed changes would delete factors relating to the nature and extent of any other criminal record, the nature and extent of any involvement in trafficking of controlled substances, and the length of time between offenses. AmeriCorps has determined that these factors are unnecessary considerations, given that the type and amount of controlled substance and whether firearms or dangerous weapons were involved in the offense are already considered, and there is already a catch-all factor to allow for consideration of other relevant aggravating or ameliorating circumstances.

Proposed § 2525.40 would revise the current section to separate information on extensions to the use period into new sections specific to various questions regarding extensions. Proposed edits to this section would also delete the specific reference to Summer of Service education awards.

Proposed § 2525.41 is a new section and would specifically address when an application for an extension must be submitted, and would add an exception to the requirement to submit a request for extension prior to the use period deadline for instances when the individual was unavoidably prevented from timely submitting their application.

Proposed § 2525.42 is a new section and would specifically address the circumstances in which AmeriCorps will grant an extension. The proposed changes would clarify that AmeriCorps will automatically (upon receipt of an application) extend the use period when an individual served and successfully completed another term of service in an approved national service position during the use period. The proposed changes would then clarify that AmeriCorps treats all service in AmeriCorps and the Peace Corps as service in another approved national service position for the purposes of extensions, and specifies the documentation required to evidence service in the Peace Corps. Proposed paragraph (b) of this section would add information on AmeriCorps' discretion to grant an extension when an Eligible Individual or Designated Recipient is unavoidably prevented from using the education award during the use period. Proposed paragraph (b) would also add examples of situations that may warrant an extension. Paragraph (b)(2) would provide factors that AmeriCorps will consider in determining whether to grant an extension. Proposed paragraph (c) would add examples of circumstances that do not warrant an extension, but would remove the current example of an individual who cannot use the education award as a result of the individual's conviction for possession or sale of a controlled substance, to allow AmeriCorps to examine the specific circumstances involved with the conviction under the proposed factors.

Proposed § 2525.43 is a new section and would specifically address what will happen if a request for extension is missing information or documentation. Proposed § 2525.44 is a new section that would specifically address how AmeriCorps will notify the Eligible Individual or Designated Recipient of its decision on the extension request. Proposed § 2526.45 is a new section that would provide new procedures for an Eligible Individual or Designated Recipient to appeal a denied request for extension.

Proposed § 2525.50 would delete information about the calculation of the value of each individual education award and would instead focus on how the aggregate value of awards is calculated, given that the limit is the aggregate value of two full-time education awards. Proposed § 2525.55 would also simplify the section to convey the impact of the aggregate value of education awards on ability to serve and to receive additional education awards.

Proposed § 2525.70 would add a new paragraph (b) to state that AmeriCorps will disallow the education award and/or initiate debt collection if AmeriCorps determines the certification made by a national service program is knowingly false or inaccurate.

3. Proposed Changes to Current Part 2527 (Proposed Subpart C)

Current part 2527, which is proposed to become subpart C to part 2525, addresses determining the amount of an education award.

Proposed § 2525.100 would replace the text on the education award amounts that may be earned for part-time and reduced part-time service with a table setting out amounts specifically for three quarters time, half-time, reduced half-time, quarter-time, minimal time and summer associate, and abbreviated time terms of service. These specifics better reflect the range of alternatives to full-time service and the accompanying partial education award amounts available. This proposed section also labels as ''pro-rated awards'' those awards available to Eligible Individuals who are released from completing a term of service for compelling personal circumstances. This proposed section would also replace the formula for discounted education award amounts (where discounting is required to ensure an Eligible Individual receives no more than the aggregate value of two awards) with a narrative explanation of how the award amounts are discounted, for clarity.

4. Proposed Changes to Current Part 2528 (Proposed Subpart D)

Current part 2528, which is proposed to become subpart D to part 2525, addresses using an education award.

Proposed § 2525.210 and § 2525.240 would refer to the updated definition of ''educational expenses'' instead of repeating what the educational expenses include.

Proposed § 2525.250 would specify that the institution does not need to refund AmeriCorps for disbursed, but not used, education award funds if the Eligible Individual was charged for the uncompleted period of study or training. This proposed section would also clarify that the institution must provide a pro-rata refund to AmeriCorps if the institution does not have a published refund policy.

Proposed § 2525.290, a new section, would be added to specify that an education award is not to be treated as marital property and that, unless the listed circumstances are present, that an education award expires upon the Eligible Individual's death.

5. Proposed Changes to Current Part 2529 (Proposed Subpart E)

Current part 2529, which is proposed to become subpart E to part 2525, addresses payment of accrued interest.

Proposed § 2525.310 would add that the loan holder specifies the period of forbearance during the term of service. Paragraph (b) of this section would add that the portion of accrued interest AmeriCorps will pay is based on the length of service.

6. Proposed Changes to Current Part 2530 (Proposed Subpart F)

Current part 2530, which is proposed to become subpart F to part 2525, addresses the transfer of education awards.

Proposed § 2530.10 would delete the provision regarding enrollment on or before 2010 because the proposed rule,

if finalized, will apply only after the effective date, which will necessarily be after 2010. This proposed section would also add the stepchild of an Eligible Individual to the categories of Designated Recipients for transferred awards.

Proposed § 2530.30 would break out procedures for a Designated Recipient to accept a transferred award into a new paragraph (c). This proposed section would also add a new paragraph (e) to clarify that a Designated Recipient may refuse to accept a transferred education award, and an Eligible Individual may revoke the amount of transfer that has not been requested for use.

Proposed § 2530.40 would allow Eligible Individuals to transfer their education awards to one or two individuals, rather than just one individual. Proposed paragraph (b) of this section would allow Designated Recipients to reject part of the education award designated to be transferred to them. These provisions also clarify that the main restriction on transfer or re-transfer of an education award to an eligible Designated Recipient as that the use period for the education award must not have expired.

Proposed § 2530.50 would clarify that any education awards the Designated Recipient may have earned through their own service term or that were previously been transferred to them award are included in the calculation of the aggregate education award value limit. Proposed paragraph (c) would allow Eligible Individuals to re-transfer an education award if it is rejected in part by a Designated Recipient, allowing for more flexibility than the current regulation, which prohibits re-transfer of the rejected portion of the award.

The proposed rule would add a new paragraph to § 2540.70 to clarify that a Designated Recipient who originally accepted a transferred education award may rescind their acceptance of any unused portion of the award at any time before the education award expires, and for any reason.

Proposed § 2540.80 would remove the requirement for AmeriCorps to approve a re-transfer of an education award after an Eligible Individual revokes the award.

Proposed § 2530.85 would delete the paragraph regarding the mechanics of deducting and crediting the revoked amount because these functions are handled internally by AmeriCorps.

Proposed § 2530.87 is a new proposed section that would address what happens to a transferred education award upon divorce or death.

III. Regulatory Analyses

A. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. The Office of Information and Regulatory Affairs in the Office of Management and Budget anticipates that this will not be a significant regulatory action and, therefore, is not subject to review under Section 6(b) of E.O. 12866, Regulatory Planning and Review.

B. Congressional Review Act (Small Business Regulatory Enforcement Fairness Act of 1996, Title II, Subtitle E)

As required by the Congressional Review Act (5 U.S.C. 801–808), before an interim or final rule takes effect, AmeriCorps will submit for an interim or final rule a report to each House of the Congress and to the Comptroller General of the United States. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. The Office of Information and Regulatory Affairs in the Office of Management and Budget anticipates that this will not be a major rule under 5 U.S.C. 804 because this rule will not result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, state, or local Government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

C. Regulatory Flexibility Act

As required by the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*), AmeriCorps certifies that this rule, if adopted, will not have a significant economic impact on a substantial number of small entities. Therefore, AmeriCorps has not performed the initial regulatory flexibility analysis that is required under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) for rules that are expected to have such results.

D. Unfunded Mandates Reform Act of 1995

For purposes of Title II of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531–1538, as well as Executive Order 12875, this regulatory action does not contain any Federal mandate that may result in increased expenditures in either Federal, State, local, or Tribal Governments in the aggregate, or impose an annual burden exceeding $100 million on the private sector.

E. Paperwork Reduction Act

This proposed rule requires a revision to one OMB Control Number, Education Award Transfer Forms, currently approved under OMB Control Number 3045–0136, which expires 01/31/2024.

The other information collections in the rule are already authorized by another OMB Control Number. Specifically, the requirements for certifications referred to in proposed §§ 2525.15 and 2525.20 restate requirements in other parts of title 45 (specifically §§ 2522.220 and 2522.230), which are authorized by OMB Control Number 3045–0006, Enrollment and Exit Forms, on which the sponsoring entity provides their certifications, and for which entities maintain supporting documentation as a usual and customary business practice.

This proposed rule does not affect the information collections associated with parts 2528 and 2529 (other than affecting the CFR citations, which will be updated during routine renewals) that have been approved by OMB:

- For 45 CFR 2528: Voucher and Payment Request Form—approved under OMB Control Number 3045–0014, which expires 01/31/2023.
- For 45 CFR 2529: Interest Accrual Form—currently approved under OMB Control Number 3045–0053, which expires 01/31/2023, and Forbearance Request for National Service Form—approved under OMB Control Number 3045–0030, which expires 01/31/2023.

This proposed rule affects the Education Award Transfer Forms because the Request to Transfer a Segal Education Award Amount form must be updated to clarify that an award may be transferred to no more than two individuals, that a transfer may be declined in part or in full or revoked in part or in full, and to delete the portion of the form requiring request of a waiver to re-transfer. The Accept/Decline Award Transfer Form requires a change to indicate that step-children and step-grandchildren may accept the transfer of an education award. There is no change to the estimated time or hour or non-

hour cost burdens resulting from these form changes. With this proposed rulemaking, we are therefore seeking to revise the following information collection:

OMB Control Number: 3045–0136.

Title: Education Award Transfer Forms.

Brief Description of Collection: This information collection consists of the questions that AmeriCorps members answer to request a transfer of their education award or revoke a transfer, and that education award recipients answer to accept or decline the transfer or rescind their acceptance. The information collected identifies those qualified to transfer their award, the transfer award amount, and those qualified to receive the award transfer, as well as establish a National Service Trust account for the transfer recipient.

Forms Affected: Transfer Application Form, Award Transfer Acceptance Form.

Type of Review: Revision of a currently approved information collection:

Respondents/Affected Public: Individuals.

Total Estimated Number of Annual Respondents: 900.

Total Estimated Number of Annual Responses: 900.

Estimated Time per Response: 5 minutes.

Estimated Total Annual Hour Burden: 75 hours.

Respondents' Obligation: Required to obtain a benefit.

Frequency of Response: Occasional.

Total Estimated Annual Non-Hour Burden Response: $0.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public to comment on any aspect of this information collection, including:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this 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 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 response.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this rulemaking 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. Please provide a copy of your comments to the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Please reference OMB Control Number 3045–0136 in the subject line of your comments.

F. Federalism (E.O. 13132)

Executive Order 13132, Federalism, prohibits an agency from publishing any rule that has federalism implications if the rule imposes substantial direct compliance costs on State and local governments and is not required by statute, or the rule preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive order. This rulemaking does not have any federalism implications, as described above.

G. Takings (E.O. 12630)

This proposed rule does not affect a taking of private property or otherwise have taking implications under Executive Order 12630 because this proposed rule does not affect individual property rights protected by the Fifth Amendment or involve a compensable ''taking.'' A takings implication assessment is not required.

H. Civil Justice Reform (E.O. 12988)

This proposed rule complies with the requirements of Executive Order 12988. Specifically, this rulemaking: (a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and (b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

I. Consultation With Indian Tribes (E.O. 13175)

AmeriCorps recognizes the inherent sovereignty of Indian Tribes and their right to self-governance. We have evaluated this rulemaking under the AmeriCorps consultation policy and the criteria in E.O. 13175 and determined that this rule does not impose substantial direct effects on federally recognized Tribes.

J. Clarity of This Regulation

We are required by Executive Orders 12866 (section 1(b)(12)), and 12988 (section 3(b)(1)(B)), and 13563 (section 1(a)), and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each proposed rule we publish must: (a) be logically organized; (b) use the active voice to address readers directly; (c) use clear language rather than jargon; (d) be divided into short sections and sentences; and (e) use lists and tables wherever possible. If you feel that we have not met these requirements, please send us comments by one of the methods listed in the **ADDRESSES** section. To help us revise the rule, your comments should be as specific as possible.

List of Subjects in 45 CFR Part 2525

Grant programs—social programs, Student aid, Volunteers.

For the reasons discussed in the preamble, under the authority of 42 U.S.C. 12651c(c), the Corporation for National and Community Service proposes to amend parts 2525 through 2530 of chapter XXV, title 45 of the Code of Federal Regulations, as follows:

■ 1. Revise part 2525 to read as follows:

PART 2525—NATIONAL SERVICE TRUST

Subpart A—Purpose and Definitions

Subpart B—Eligibility for an Education Award

Authority: 42 U.S.C. 12601–12606.

Subpart A—Purpose and Definitions

§ 2525.1 What is the National Service Trust?

The National Service Trust is an account in the Treasury of the United States from which AmeriCorps makes payments of education awards, pays interest that accrues on qualified student loans for AmeriCorps participants during terms of service in approved national service positions, and makes other payments authorized by Congress.

§ 2525.2 Definitions.

In addition to the definitions in § 2510.20 of this chapter, the following definitions apply to terms used this part:

AmeriCorps means the Corporation for National and Community Service.

Cost of attendance has the same meaning as in Title IV of the Higher Education Act of 1965, as amended (20 U.S.C. 1070 *et seq.*).

Current educational expenses means the cost of attendance, or other costs attributable to an educational course offered by an institution of higher education that has in effect a program participation agreement under Title IV of the Higher Education Act, for a period of enrollment that begins after an individual enrolls in an approved national service position.

Designated Recipient means the person to whom an earned education award is transferred.

Economically disadvantaged youth means a child who is eligible for a free lunch or breakfast under the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)).

Education award means the Segal AmeriCorps Education Award of financial assistance available under this part, including the Silver Scholar education awards, and Summer of Service education awards.

Educational expenses means—

(1) Cost of attendance as determined by the Title IV institution of higher education or G.I. Bill-approved program as provided in 20 U.S.C. 1087*ll;* or

(2) Tuition or associated costs as determined by a program offered by an educational institution or training establishment approved for educational benefits under 38 U.S.C. 3670 *et seq.* for offering programs of education, apprenticeship, or on-job training for which educational assistance may be provided by the Secretary for Veterans Affairs; and

(3) Expenses incurred participating in a school-to-work program approved by the Secretaries of Labor and Education.

Eligible Individual means an individual who has enrolled in and successfully completed a term of service in an approved national service position, as certified under § 2525.15 of this chapter.

G.I. Bill-approved program is an educational institution or training establishment approved for educational benefits under the Montgomery G.I. Bill (38 U.S.C. 3670 *et seq.*) for offering programs of education, apprenticeship, or on-job training for which educational assistance may be provided by the Secretary for Veterans Affairs.

Holder means—

(1) The original lender; or

(2) Any other entity to which a loan is subsequently sold, transferred, or assigned if such entity acquires a legally enforceable right to receive payments from the borrower.

Institution of higher education has the same meaning given the term in section 102 of the Higher Education Act of 1965, as amended (20 U.S.C. 1002).

Period of enrollment means the period that the institution has established for which institutional charges are generally assessed (*e.g.,* length of the

student's course, program, or academic year.)

Qualified student loan means:

(1) Any loan made, insured, or guaranteed under Title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 *et seq.*), other than a loan to a parent of a student under section 428B of that Act (20 U.S.C. 1078–2);

(2) Any loan made under Title VII or VIII of the Public Service Health Act (42 U.S.C. 292a *et seq.*); or

(3) Any other loan determined by an institution of higher education or an approved veterans' benefits program to be necessary to cover a student's educational expenses and made, insured, or guaranteed by:

(i) An eligible lender, as defined in section 435 of the Higher Education Act of 1965 (20 U.S.C. 1085);

(ii) The direct student loan program under part D of Title IV of the Higher Education Act of 1965 (20 U.S.C. 1087a *et seq.*);

(iii) A State agency; or

(iv) A lender otherwise determined by AmeriCorps to be eligible to receive disbursements from the National Service Trust.

Silver Scholar education award means the financial assistance available under this part for which an individual in an approved Silver Scholar position may be eligible.

Summer of Service education award means the financial assistance available under this part for which an individual in an approved Summer of Service position may be eligible.

Term of service means—

(1) For an individual serving in an approved AmeriCorps position, one of the terms of service specified in § 2522.220 of this chapter

(2) For an individual serving in an approved Silver Scholar position, not less than 350 hours during a one-year period

(3) For an individual serving in an approved Summer of Service position, not less than 100 hours during the summer months of a single year.

Subpart B—Eligibility for an Education Award

§ 2525.10 When can an Eligible Individual receive an education award from the National Service Trust?

(a) *General.* An Eligible Individual is entitled to receive an education award from the National Service Trust if that person:

(1) Is a citizen or national of the United States or a lawful permanent resident alien of the United States; and,

(2) Met the applicable eligibility requirements for the approved national service program as appropriate; and,

(3) Either:

(i) Is certified by their supervising entity to have successfully completed a term of service—whether a full-time 1,700-hour term corresponding to a full education award or a less than full-time term of service with a corresponding partial award amount described in § 2525.100(b)—as certified under § 2525.15; or,

(ii) For a pro-rated education award amount described in § 2525.100(c), is certified by their supervising entity to have completed at least 15 percent of the originally-approved term of service, and performed satisfactorily prior to being granted a release for compelling personal circumstances, consistent with § 2522.230(a).

(b) *Prohibition on duplicate benefits.* An Eligible Individual who receives a post-service benefit in lieu of an education award may not receive an education award for the same term of service.

(c) *Penalties for false information.* Any individual who makes a materially false statement or representation in connection with the approval or disbursement of an education award or other payment from the National Service Trust may be liable for the recovery of funds and subject to civil and criminal sanctions.

§ 2525.15 Upon what basis may an entity responsible for the supervision of an Eligible Individual certify that the Eligible Individual successfully completed a term of service?

(a) An Eligible Individual's supervising entity must certify that the individual has successfully completed a term of service. The individual successfully completed a term of service if the individual has:

(1) Completed the number of service hours required;

(2) Satisfactorily performed on assignments, tasks, or projects;

(3) Met any performance criteria as determined by the program and communicated to the member; and

(4) Fulfilled any other enrollment and program requirements to earn an education award.

(b) A certification by the supervising entity that an individual did or did not successfully complete a term of service will be deemed to incorporate an end-of-term evaluation.

§ 2525.20 Under what circumstances is an Eligible Individual who does not complete an approved term of service eligible to receive a pro-rated education award?

(a) *Release for compelling personal circumstances.* An Eligible Individual who is released before they to complete an approved term of service is eligible for a pro-rated education award if their supervising entity:

(1) Released the Eligible Individual for compelling personal circumstances in accordance with the requirements of § 2522.230(a), including requirements for maintaining documentation of the basis for the entity's decision;

(2) Certifies that the Eligible Individual:

(i) Performed satisfactorily before they were granted a release for compelling personal circumstances; and

(ii) Completed at least 15 percent of the originally approved term of service.

(b) *Release for cause.* An individual who is released for cause before they completed an originally approved term of service is not eligible for any portion of an education award.

§ 2525.25 If a participant in an approved Summer of Service or Silver Scholar position does not complete their term of service, are they eligible to receive a pro-rated education award?

No. An individual released for any reason before they complete an approved term of service in a Silver Scholar or Summer of Service position is not eligible to receive a pro-rated award.

§ 2525.30 How do convictions for the possession or sale of controlled substances affect an Eligible Individual's ability to use their award?

(a) Except as provided in paragraph (b) of this section, an Eligible Individual who is convicted under Federal or State law of the possession or sale of a controlled substance is not eligible to use his or her education award from the date of the conviction until the end of a specified time period, which is determined based on the type of conviction as follows:

(1) For conviction of the possession of a controlled substance, the individual is ineligible from the date of conviction for—

(i) One year for a first conviction;

(ii) Two years for a second conviction; and

(iii) For a third or subsequent conviction, indefinitely, as determined by AmeriCorps according to the following factors—

(A) Type and amount of controlled substance;

(B) Whether firearms or other dangerous weapons were involved in the offense;

(C) Employment history;

(D) Service to the community;

(E) Recommendations from community members and local officials, including experts in substance abuse and treatment; and

(F) Any other relevant aggravating or ameliorating circumstances.

(2) For conviction of the sale of a controlled substance, the individual is ineligible from the date of conviction for—

(i) Two years for a first conviction; and

(ii) Two years plus any additional time AmeriCorps determines is appropriate for second and subsequent convictions, based on the factors set forth in paragraphs (a)(1)(iii)(A) through (F) of this section.

(b) AmeriCorps will restore the Eligible Individual's access to use the education award if AmeriCorps determines that the individual has successfully completed a legitimate drug rehabilitation program, or in the case of a first conviction that the individual has enrolled in a legitimate drug rehabilitation program and:

(1) The drug rehabilitation program is recognized as legitimate by appropriate Federal, State or local authorities; and

(2) The Eligible Individual's enrollment in or successful completion of the legitimate drug rehabilitation program has been certified by an appropriate official of that program.

§ 2525.40 How long is an education award available for use?

Unless AmeriCorps approves an extension under § 2525.42, the use period for an education award is as follows:

(a) An education award is available for an Eligible Individual to use until seven years from the date when they successfully completed the term of service for which the award was earned;

(b) An education award that is transferred to a Designated Recipient under subpart F may be used until 10 years from the date when the Eligible Individual who transferred the award successfully completed their term of national service.

§ 2525.41 When must an application for an extension be submitted?

An application for an extension must be submitted to AmeriCorps before the award use period ends, or the individual must have been unavoidably prevented from timely submitting the extension application.

§ 2525.42 Under what circumstances will AmeriCorps grant an extension?

(a) AmeriCorps will automatically grant an extension to the use period of an education award if the individual served and successfully completed a term of service in an approved national service position that fell within the use period for that education award and applies for an extension under § 2525.41.

(1) The use period will be extended by the length of the individual's additional approved and completed term of service at the time of the extension application.

(2) For purposes of this extension, AmeriCorps will treat all service in AmeriCorps and the Peace Corps as service in another AmeriCorps-approved national service position.

(3) If the additional of service is in the Peace Corps, the individual requesting an extension will need to provide a Description of Service (DOS), signed by the country's director or designee for the Peace Corps service.

(b) If AmeriCorps determines that an Eligible Individual or Designated Recipient was unavoidably prevented from using the education award during the original use period, AmeriCorps may grant an extension for a period of time that AmeriCorps deems appropriate, but generally not for more than one year from the end of the original use period. Also, AmeriCorps will grant only one extension of the use period except in very limited circumstances, such as, for example, when the event preventing the member from timely using their education award is likely to exist for more than 12 months, such as active military duty.

(1) Examples of situations that may warrant an extension if they hinder use of an education award may include, but are not limited to:

(i) The Eligible Individual's serious illness, injury, or disability;

(ii) The death, serious illness, injury, or disability of someone in the Eligible Individual's immediate family that occurs close to the end of the use period;

(iii) The destruction or inaccessibility of important service records maintained by the program;

(iv) Natural disasters;

(v) Military service that prevents the use of an education award, such as active duty overseas (but a person in the reserves or National Guard who has not been called up on active duty, or who is enlisted in the military, is not necessarily unavoidably prevented from timely using their education award because of their military service).

(2) When considering whether to grant an extension, AmeriCorps also will consider whether:

(i) The extension is a result of the individual's choices or actions or factors beyond the individual's control;

(ii) The need for the extension is in any part attributable to AmeriCorps' or an AmeriCorps-funded entity's actions;

(iii) The lending institution or institution entitled to the payment failed to take an action, or took an action, that resulted in the individual needing/wanting the extension.

(c) Examples of circumstances that do not meet the criteria for granting an extension may include but are not limited to:

(1) Employment or unemployment, even in a position with a non-profit organization involved in community service.

(2) Forgetting to use the education award, being unaware of the use-period restrictions, or not receiving his or her education award expiration notice.

(3) Being too young to use a transferred education award.

§ 2525.43 What if the request for an extension is missing information or documentation?

If the extension application lacks necessary information or documentation, AmeriCorps may request additional documentation. If the requested additional documentation is not provided to AmeriCorps within 30 days, AmeriCorps may close the request for an extension.

§ 2525.44 How will AmeriCorps notify the Eligible Individual or Designated Recipient of its decision on the extension request?

AmeriCorps will notify the Eligible Individual or Designated Recipient in writing if the request for an extension has been granted or denied. The notification will advise the requester of the process for appealing the denial if the requester has a good-faith basis to believe their request was erroneously denied.

§ 2525.45 Can an Eligible Individual or Designated Recipient appeal a denied request for an extension?

(a) If an Eligible Individual or Designated Recipient submits a timely application for an extension and the application is denied, the individual may file an appeal. The appeal must:

(1) Be received within 30 days of the denial determination;

(2) Be made in writing—either online through the *My AmeriCorps* portal if the education award has not expired—or through a submission to the National Service Hotline at 1–800–942–2677;

(3) Explain why the initial determination was erroneous/should be reviewed; and,

(4) Include supporting documentation, if applicable.

(b) AmeriCorps may grant an appeal when, after review of all the information provided originally and on appeal, it appears that the extension should have been granted. AmeriCorps may ask for additional documentation to inform the appeal determination.

(c) Individuals who submit appeals will be notified in writing of the final determination.

§ 2525.50 Is there a limit on the total amount of education awards an individual may receive?

(a) *General Limitation.* While there is no limit on the specific dollar amount, no individual may receive more than the amount equal to the aggregate value of two full-time education awards.

(b) *Calculation of aggregate value of awards received.* The aggregate value of education awards received is the sum of:

(1) The value of each education award received for successful completion of an approved national service position;

(2) The value of each partial education award received upon release from an approved national service position for compelling personal circumstances; and

(3) The value of any amount received from a transferred education award, except as provided in § 2525.460.

(c) *Determination of Receipt of Award.* For purposes of determining the aggregate value of education awards, an award is considered to be received at the time it becomes available for use.

§ 2525.55 What is the impact of the aggregate value of education awards received on an individual's ability to serve in additional terms of service?

The aggregate value of education awards received does not limit an individual's ability to serve in additional terms of service, but does impact the amount of the education award the individual may receive pursuant to § 2525.100(d) upon successful completion of any additional term of service.

§ 2525.60 May an individual receive an education award and related interest benefits from the National Service Trust as well as other loan cancellation benefits for the same term of service?

An individual may not receive an education award and related interest benefits from the National Service Trust for a term of service and have that same service credited toward repayment, discharge, or cancellation of other student loans, except an individual may credit the service toward the Public Service Loan Forgiveness Program, as provided under 34 CFR 685.219.

§ 2525.70 What are the effects of an erroneous certification of successful completion of a term of service?

(a) If AmeriCorps determines that the certification made by a national service program under § 2525.10(a)(2) is erroneous, AmeriCorps shall assess against the national service program a charge for the amount of any associated payment or potential payment from the National Service Trust, taking into consideration the full facts and circumstances that led to the erroneous or incorrect certification.

(b) If AmeriCorps determines that the certification made is knowingly false or inaccurate, AmeriCorps will disallow the education award and/or initiate a debt collection process for any education award funds disbursed.

(c) Nothing in this section prohibits AmeriCorps from taking any action authorized by law based upon any certification that is knowingly made in a false, materially misleading, or fraudulent manner.

Subpart C—Determining the Amount of an Education Award

§ 2525.100 What is the amount of an education award?

(a) *Full-time term of service.* Except as provided in paragraph (d) of this section, the education award for a full-time term of service in an approved national service position of at least 1,700 hours will be equal to the maximum amount of a Federal Pell Grant under Section 401 of the Higher Education Act of 1965 (20 U.S.C. 1070a) that a student eligible for that grant may receive in the aggregate for the award year in which the term of service is approved by AmeriCorps.

(b) *Less than full-time term of service.* Except as provided in paragraph (d) of this section, the amount of an education award for an approved national service position for less than full-time term of service (*i.e.,* partial award) is determined in accordance with the following table:

TABLE 1 TO PARAGRAPH (b)

For:	In an approved position of at least: (hours)	Is equal to the following percentage of the amount of an education award for a full-time term of service described in paragraph (a) of this section:
Three quarters time term of service (TQT)	1,200	70 percent.
Half-time term of service (HT)	900	50 percent.
Reduced half-time term of service (RHT)	675	Approximately 39 percent.
Quarter-time term of service (QT)	450	Approximately 26 percent.
Minimal time and summer associate (MT & SA)	300	Approximately 21 percent.
Abbreviated time (AT)	100	5.6 percent.

(c) *Calculating a pro-rated award following release for compelling personal circumstances.* The education award for an Eligible Individual who is released from completing an approved term of service for compelling personal circumstances is equal to the product of—

(1) The number of hours completed divided by the number of hours in the approved term of service; and

(2) The amount of the education award for the approved term of service.

(d) *Calculating a discounted education award amount.* To ensure that an Eligible Individual receives no more than the aggregate value of two awards, pursuant to § 2525.50, if the sum of the education award value offered for a term of service and the aggregate value of previously-received education awards exceeds the value of two awards, then the individual may receive only a portion of that offered education award, such that the aggregate value of the education awards is not greater than the value of two awards.

Subpart D—Using an Education Award

§ 2525.210 For what purposes may an education award be used?

(a) An education award may be used to pay educational expenses and/or to repay qualified student loans, as defined in § 2525.2;

(b) An education award is divisible and may be applied to any combination

of loans, costs, or expenses described in paragraph (a) of this section.

§ 2525.220 What steps are necessary to use an education award to repay a qualified student loan?

(a) *Required information.* Before disbursing an amount from an education award to repay a qualified student loan, AmeriCorps must receive—

(1) An Eligible Individual's written authorization and request for a specific payment amount;

(2) Any identifying and other information from the loan holder as requested by AmeriCorps.

(b) *Payment.* When AmeriCorps receives the information required under paragraph (a) of this section, it will pay the loan holder and notify the Eligible Individual of the payment.

(c) *Aggregate payments.* AmeriCorps may establish procedures to aggregate payments to holders of loans for more than a single individual.

§ 2525.230 What steps are necessary to use an education award to pay all or part of the current educational expenses at an institution of higher education?

(a) *Required information.* Before disbursing funds from an education award to pay all or part of the current educational expenses at an institution of higher education, AmeriCorps must receive—

(1) An Eligible Individual's written authorization and request for a specific payment amount;

(2) Information from the institution of higher education as requested by AmeriCorps, including verification that—

(i) It has in effect a program participation agreement under section 487 of the Higher Education Act of 1965 (20 U.S.C. 1094);

(ii) Its eligibility to participate in any of the programs under Title IV of the Higher Education Act of 1965 has not been limited, suspended, or terminated;

(iii) If an Eligible Individual who has used an education award withdraws or otherwise fails to complete the period of enrollment for which the education award was provided, the institution of higher education will ensure an appropriate refund to AmeriCorps of the unused portion of the education award under its own published refund policy, or if it does not have one, provide a pro-rata refund to AmeriCorps of the unused portion of the education award;

(iv) Individuals using education awards to pay for current educational expenses at that institution do not comprise more than 15 percent of the institution's total student population;

(v) The requested amount will be used to pay all or part of the Eligible Individual's educational expenses attributable to a course offered by the institution;

(vi) The requested amount does not exceed the difference between:

(A) The Eligible Individual's cost of attendance and other educational expenses; and

(B) The Eligible Individual's estimated student financial assistance for that period under Part A of Title IV of the Higher Education Act (20 U.S.C. 1070 *et seq.*).

(b) *Payment.* When AmeriCorps receives the information required under paragraph (a) of this section, it will pay the institution and notify the Eligible Individual of the payment.

(c) *Installment payments.* AmeriCorps will disburse the education award payment to the institution in at least two separate installments, none of which exceeds 50 percent of the total amount. The interval between installments may not be less than one-half of the period of enrollment, except as necessary to permit the second installment to be paid at the beginning of the second semester, quarter, or other division of a period of enrollment.

§ 2525.240 Is there a limit on the amount of an Eligible Individual's education award that AmeriCorps will disburse to an institution for a given period of enrollment?

Yes. AmeriCorps' disbursement from an Eligible Individual's education award for any period of enrollment may not exceed the difference between:

(a) The Eligible Individual's educational expenses, determined by the institution; and

(b) The Eligible Individual's estimated financial assistance for that period under part A of Title IV of the Higher Education Act.

§ 2525.250 What happens if an individual withdraws or fails to complete the period of enrollment in an institution of higher education for which AmeriCorps has disbursed all or part of that individual's education award?

(a) If an Eligible Individual for whom AmeriCorps has disbursed education award funds withdraws or otherwise fails to complete a period of enrollment, then an institution that receives a disbursement of education award funds from AmeriCorps must:

(1) Provide a refund to AmeriCorps in an amount determined under that institution's published refund requirements, unless the institution charged the Eligible Individual for the uncompleted period of study or training.

(2) Provide a pro-rata refund to AmeriCorps of the unused portion of the education award if the institution does not have a published refund policy.

(b) AmeriCorps will credit any refund received for an Eligible Individual under paragraph (a) of this section to the individual's education award allocation in the National Service Trust.

§ 2525.260 Who may use the education award to pay expenses incurred in enrolling in a G.I. Bill-approved program?

To use the education award to pay expenses incurred in enrolling in a G.I. Bill-approved program, an Eligible Individual must have received an education award for successfully completing a term in an approved national service position, in which they enrolled on or after October 1, 2009.

§ 2525.270 What steps are necessary to use an education award to pay expenses incurred in enrolling in a G.I. Bill-approved program?

(a) *Required Information.* Before disbursing funds from an education award for this purpose, AmeriCorps must receive:

(1) An individual's written authorization and request for a specific payment amount;

(2) Verification from the individual that they meet the criteria in § 2525.260; and

(3) Information from the educational institution or training establishment as requested by AmeriCorps, including verification that—

(i) The amount requested will be used to pay all or part of the individual's expenses attributable to a course, program of education, apprenticeship, or job training offered by the institution or establishment;

(ii) The course(s) or program(s) for which the individual is requesting to use the education award has been and is currently approved by the State approving agency for the State where the institution or establishment is located, or by the Secretary of Veterans Affairs; and

(iii) If an individual who has used an education award withdraws or otherwise fails to complete the period of enrollment for which the education award was provided, the institution or establishment will ensure a pro-rata refund to AmeriCorps of the unused portion of the education award.

(b) *Payment.* When AmeriCorps receives the information required under paragraph (a) of this section, it will pay the institution or establishment and notify the individual of the payment.

§ 2525.280 What happens if an individual for whom AmeriCorps has disbursed education award funds withdraws or fails to complete the period of enrollment in a G.I. Bill approved program?

(a) If an individual for whom AmeriCorps has disbursed education award funds withdraws or otherwise fails to complete a period of enrollment, the approved educational institution or training establishment that received a disbursement of education award funds from AmeriCorps must provide a pro-rata refund to AmeriCorps of the unused portion of the education award.

(b) AmeriCorps will credit any refund received for an individual under paragraph (a) of this section to the individual's education award allocation in the National Service Trust.

§ 2525.290 What happens to an education award upon divorce or death?

(a) *Prohibition on treatment of an education award as marital property.* An education award may not be treated as marital property, or the asset of a marital estate, subject to division in a divorce or other civil proceeding.

(b) *Death of Eligible Individual.* An educational award expires and is no longer available for any purpose upon the death of the Eligible Individual, except for:

(1) Any award or portion of the educational award the Eligible Individual transferred prior to death;

(2) Any amount for which the Eligible Individual submitted a request for disbursement prior to death that the National Service Trust had not yet either received or acted upon as of the date of death.

Subpart E—Payment of Accrued Interest

§ 2525.310 Under what circumstances will AmeriCorps pay interest that accrues on qualified student loans during an individual's term of service in an approved position?

(a) *Eligibility.* AmeriCorps will pay interest that accrues on an Eligible Individual's qualified student loan, subject to the limitation on amount in paragraph (b) of this section, if:

(1) The Eligible Individual successfully completes a term of national service in an approved position; and

(2) The loan holder approves the Eligible Individual's request for forbearance for a time period specified by the loan holder during the term of service.

(b) *Amount.* The portion of accrued interest that AmeriCorps will pay is determined by the length of service. The percentage of accrued interest that AmeriCorps will pay is the lesser of—

(1) The product of—

(i) The number of completed service hours divided by the number of days for which forbearance was granted; and

(ii) 365 divided by 17; and

(2) 100.

(c) *Supplemental to education award.* A payment of accrued interest under this part is supplemental to an education award received by an Eligible Individual under this part.

(d) *Limitation.* AmeriCorps is not responsible for the payment of any accrued interest in excess of the amount determined in accordance with paragraph (b) of this section.

(e) *Suspended service.* AmeriCorps will not pay interest expenses that accrue on an Eligible Individual's qualified student loan during a period of suspended service.

§ 2525.320 What steps are necessary to obtain forbearance in the repayment of a qualified student loan during an individual's term of service in an approved AmeriCorps position?

(a) An Eligible Individual seeking forbearance must submit a request to the loan holder.

(b) If, before approving a request for forbearance, the loan holder requires verification that the Eligible Individual is serving in an approved national service position, AmeriCorps will provide verification upon a request from the Eligible Individual or the loan holder.

§ 2525.330 What steps are necessary for AmeriCorps to pay interest that has accrued on a qualified student loan in forbearance?

(a) If an Eligible Individual has obtained forbearance on a qualified student loan, AmeriCorps will make payments from the National Service Trust for interest that has accrued on that student loan during the individual's term of service, after:

(1) The program verifies that the Eligible Individual has successfully completed the term of service and the dates when the term of service began and ended;

(2) The holder of the loan verifies the amount of interest that has accrued during the term of service.

(b) When AmeriCorps receives all necessary information from the program and the loan holder, it will pay the loan holder and notify the individual of the payment.

Subpart F—Transfer of Education Awards

§ 2525.410 Under what circumstances may an Eligible Individual transfer an education award?

An Eligible Individual may transfer an education award if—

(a) The Eligible Individual was 55 or older on the day they began the term of service in an approved national service position;

(b) The Eligible Individual successfully completed a term of service in an approved national service position;

(c) The education award the Eligible Individual is requesting to transfer has not expired, consistent with the period of availability set forth in § 2525.40(a);

(d) The individual designated to receive the transferred education award (the Designated Recipient) is:

(1) The Eligible Individual's child, grandchild, stepchild, step-grandchild, or foster child; and

(2) A citizen, national, or lawful permanent resident of the United States.

(e) The Designated Recipient is not entitled to the education award until their citizenship status has been verified. Once citizenship is confirmed, the Designated Recipient has all the benefits of an Eligible Individual.

§ 2525.420 For what purposes may a transferred award be used?

A transferred award may be used by the Designated Recipient to repay qualified student loans or to pay current educational expenses at an institution of higher education, as described in § 2525.210.

§ 2525.430 What steps are necessary to transfer an education award?

(a) *Request for Transfer.* Before transferring an education award to a Designated Recipient, AmeriCorps must receive a request from the transferring Eligible Individual, including:

(1) The Eligible Individual's written authorization to transfer the education award, the year in which the education award was earned, and the specific amount of the education award to be transferred;

(2) Identifying information for the Designated Recipient who is to receive the transferred education award;

(3) A certification that the transferring Eligible Individual and the Designated Recipient have completed or satisfy the requirements of § 2525.410.

(b) *Notification to Designated Recipient.* Upon receipt of a request, including all required information listed in paragraph (a) of this section, AmeriCorps will contact the Designated Recipient to:

(1) Notify the Designated Recipient, or their legal guardian, of the proposed transfer;

(2) Confirm the Designated Recipient's identity;

(3) Confirm that the Designated Recipient is a citizen, national, or lawful permanent resident of the United States; and

(4) Give the Designated Recipient the opportunity to accept or reject the proposed transferred education award.

(c) *Acceptance by Designated Recipient.* To accept an education award, a Designated Recipient, or their legal guardian, must certify that the Designated Recipient is eligible under § 2525.410. Upon receipt of the Designated Recipient's acceptance and verification of the Designated Recipient's eligibility, AmeriCorps will create an account in the National Service Trust for the Designated Recipient, if an account does not already exist, and the accepted amount will be deducted from the transferring Eligible Individual's account and credited to the Designated Recipient's account.

(d) *Timing of transfer.* AmeriCorps must receive the request from the transferring Eligible Individual before the date the education award expires.

(e) *Refusal.* The Designated Recipient can refuse to accept the transferred education award under § 2525.470.

(f) *Revocation.* The Eligible Individual can revoke part or all of the remaining balance of the transfer that has not yet been requested for use under §§ 2525.480 and 2525.485.

§ 2525.440 Is there a limit on the number of recipients an individual may designate to receive a transferred award?

(a) An Eligible Individual may transfer all or part of a non-expired education award to no more than two recipients.

(b) If a Designated Recipient rejects, in whole or in part, a transferred education award, or a transfer was revoked in accordance with § 2525.480, the education award can be transferred to another Designated Recipient, so long as the education award has not yet expired.

§ 2525.450 Is there a limit on the amount of transferred education awards a Designated Recipient may receive?

(a) If the sum of the value of the requested transfer plus the aggregate value of education awards a Designated Recipient has previously earned or received, through the Designated Recipient's own service term or having previously been transferred an education award, would exceed the aggregate value of two full-time education awards, as determined pursuant to § 2525.50(b), the Designated Recipient will be deemed to have rejected that portion of the education award that would result in the excess.

(b) If a Designated Recipient has already received the aggregate value of two full-time education awards, they may not receive a transferred education award, and the Designated Recipient will be deemed to have rejected the education award in full.

§ 2525.460 What is the impact of transferring or receiving a transferred education award on an Eligible Individual's eligibility to receive additional education awards?

(a) *Impact on transferring individual.* Pursuant to § 2525.50, an education award is considered to be received at the time it becomes available for a Designated Recipient's use. Transferring all or part of an award does not reduce the aggregate value of education awards the transferring individual is considered to have received.

(b) *Impact on Designated Recipient.* For the purposes of determining the value of the transferred education award under § 2525.50, a Designated Recipient will be considered to have received a value equal to the amount received divided by the amount of a full-time education award in the year the transferring Eligible Individual's position for that education award was approved.

(c) *Result of revocation on education award value.* If the Eligible Individual revokes the transferred education award, in whole or in part, the value of the education award considered to have been received by the Designated Recipient for purposes of § 2525.50 will be reduced accordingly.

§ 2525.470 Is a Designated Recipient required to accept a transferred education award?

(a) *General rule.* No. A Designated Recipient is not required to accept a transferred education award, and may reject an education award in whole or in part.

(b) *Result of rejection in full.* If the Designated Recipient rejects a transferred education award in whole, the amount is credited back to the transferring Eligible Individual's account in the National Service Trust, and may be transferred to another individual, or may be used by the transferring Eligible Individual, consistent with the original period of availability set forth in § 2525.40(a).

(c) *Result of rejection in part.* If the Designated Recipient rejects a transferred education award in part, the rejected portion is credited to the transferring Eligible Individual's account in the National Service Trust for their use, including re-transfer of the education award, consistent with the original period of availability set forth in § 2525.40(a).

(d) *Rescission.* A Designated Recipient who originally accepted a transferred education award may rescind their acceptance of any unused portion of the award at any time before the education award expires, and for any reason.

§ 2525.480 Under what circumstances is a transfer revocable?

(a) *Revocation.* An Eligible Individual who transferred an award may revoke the transfer at any time and for any reason before the education award's expiration and use by the Designated Recipient.

(b) *Use of award.* Upon revocation, the revoked amount will be deducted from the Designated Recipient's account and credited to the transferring Eligible Individual's account. The transferring Eligible Individual may use the revoked transferred education award for any of the purposes described in § 2525.210, consistent with the original time period of availability set forth in § 2525.40(a).

(c) *Re-transfer.* An Eligible Individual may re-transfer an education award to another qualifying individual after revoking the education award.

§ 2525.485 What steps are necessary to revoke a transfer?

(a) *Request for revocation.* Before revoking a transfer, the transferring Eligible Individual must submit a request to AmeriCorps that includes:

(1) The Eligible Individual's written authorization to revoke the education award;

(2) The year in which the education award was earned;

(3) The specific amount to be revoked; and

(4) The identity of the Designated Recipient.

(b) *Used education awards.* A revocation may only apply to the portion of the transferred education award that has not been used by the Designated Recipient. If the Designated Recipient has used the entire transferred amount before AmeriCorps receives the revocation request, no amount will be returned to the transferring Eligible Individual. An amount is considered to be used when it is disbursed from the National Service Trust, not when a request is received for its use.

(c) *Notification to Designated Recipient.* AmeriCorps will notify the Designated Recipient of the amount being revoked as of the date of its receipt of the revocation request.

(d) *Timing of revocation.* AmeriCorps must receive the request to revoke the transfer from the transferring Eligible Individual before the education award's expiration as calculated pursuant to § 2525.40(a)(2), from the date the education award was originally earned.

§ 2525.487 What happens to a transferred education award upon divorce or death?

(a) *Prohibition on treatment of a transferred education award as marital property.* An education award transferred under this subsection may not be treated as marital property, or the asset of a marital estate, subject to division in a divorce or other civil proceeding.

(b) *Death of transferor.* The death of an Eligible Individual who has transferred, or initiated the transfer of, an education award under this subsection does not affect the use of the education award by the Designated Recipient.

§ 2525.490 Is a recipient of a transferred education award eligible for the payment of accrued interest for their own student loans under subpart E?

No. The transfer of an education award does not convey eligibility for payment of accrued interest under subpart E.

PART 2526—[REMOVED AND RESERVED]

■ 2. Remove and reserve part 2526, consisting of § § 2526.10 through 2526.70.

PART 2527—[REMOVED AND RESERVED]

■ 3. Remove and reserve part 2527, consisting of § 2527.10.

PART 2528—[REMOVED AND RESERVED]

■ 4. Remove and reserve part 2528, consisting of § § 2528.10 through 2528.80.

PART 2529—[REMOVED AND RESERVED]

■ 5. Remove and reserve part 2529, consisting of § § 2529.10 through 2529.30.

PART 2530—[REMOVED AND RESERVED]

■ 6. Remove and reserve part 2530, consisting of § § 2530.10 through 2530.90.

Fernando Laguarda,

General Counsel.

[FR Doc. 2022–28125 Filed 1–5–23; 8:45 am]

BILLING CODE 6050–28–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket No. 13–184; DA 22–1315; FR ID 121590]

Wireline Competition Bureau Seeks Comment on Requests To Allow the Use of E-Rate Funds for Advanced or Next-Generation Firewalls and Other Network Security Services

AGENCY: Federal Communications Commission.

ACTION: Proposed action.

SUMMARY: In this document, the Wireline Competition Bureau (the Bureau) seeks comment on petitions seeking permission to use E-Rate program funds to support advanced or next-generation firewalls and services, as well as the related funding year 2023 ESL proceeding filings. In so doing, the Bureau highlights four filings that together cover the requests and issues raised by the filers listed in this document.

DATES: Comments are due February 13, 2023 and reply comments are due March 30, 2023.

ADDRESSES: Pursuant to §§ 1.415 and 1.419 of the Federal Communications Commission's (Commission's) rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before February 13, 2023, and reply comments on or before March 30, 2023. All filings should refer to WC Docket No. 13–184. Comments may be filed by paper or by using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998).

- *Electronic Filers:* Comments and replies may be filed electronically using the internet by accessing ECFS: *http://www.fcc.gov/ecfs.*
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.
- Filings can be sent by commercial overnight courier or by first-class or overnight U.S. Postal Service mail. Filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L St. NE, Washington, DC 20554.
- Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID–19 (*see* FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy, Public Notice, DA 20–304 (March 19, 2020)) *https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy.*

FOR FURTHER INFORMATION CONTACT: Joseph Schlingbaum, Wireline Competition Bureau, (202) 418–7400 or by email at *Joseph.Schlingbaum@fcc.gov.* The Commission asks that requests for accommodations be made as soon as possible in order to allow the agency to satisfy such requests whenever possible. Send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530.

SUPPLEMENTARY INFORMATION: This is a summary of the Bureau's Public Notice (Notice) in WC Docket No. 13–184; DA 22–1315, released on December 14, 2022. Due to the COVID–19 pandemic, the Commission's headquarters will be closed to the general public until further notice. The full text of this document is available at the following internet address: *https://www.fcc.gov/document/fcc-seeks-comment-using-e-rate-funding-support-remote-learning.*

Proceedings in this Notice shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in

his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule § 1.1206(b). In proceedings governed by rule § 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in these proceedings should familiarize themselves with the Commission's *ex parte* rules.

1. The Commission has received several petitions and requests from E-Rate stakeholders through the annual E-Rate eligible services list (ESL) proceedings, asking that the Commission permit the use of E-Rate program funds to support advanced or next-generation firewalls and services, as well as other network security services. By this Notice, the Bureau seeks comment on these petitions as well as the related funding year 2023 ESL proceeding filings. In so doing, the Bureau highlights four filings in the following that together cover the requests and issues raised by the filers listed in the following: (1) a petition for waiver filed by Cisco Systems, Inc. (Cisco); (2) a petition for declaratory ruling and petition for rulemaking filed by a coalition led by the Consortium for School Networking (CoSN); (3) a proposed three-year E-Rate cybersecurity pilot program by Funds for Learning (FFL); and (4) a letter from 20 national educational groups led by AASA, The School Superintendents Association (AASA).

2. The Petitions and ESL Filings. During the COVID–19 pandemic, several E-Rate stakeholders submitted petitions asking the Commission to reconsider the eligibility of advanced firewall and network security services given the increased use of schools' broadband networks to provide remote learning to their students. On August 20, 2020, Cisco submitted a Petition for Waiver asking that Commission raise applicants' Category Two budgets by 10% and allow Category Two funding to be used for advanced network security services during the COVID–19 pandemic (*i.e.,* for funding years 2020 and 2021). On February 8, 2021, the Commission received a petition for declaratory ruling and petition for rulemaking from a group of E-Rate program stakeholders (including CoSN, Alliance for Excellence in Education, State Educational Technology Directors Association (SETDA), Council of the Great City Schools, State E-Rate Coordinators' Alliance (SECA), and Schools, Health & Libraries Broadband (SHLB) Coalition) (collectively, Petitioners) requesting that the definition of ''firewall'' be modified to include all firewall and related features (*e.g.,* next generation firewall protection, endpoint protection, and advanced security) and to update the definition of broadband to include cybersecurity. CoSN, along with FFL, provided a study and the costs associated with adding advanced firewall and other network security services to the E-Rate program and estimated that it would cost the program about $2.389 billion annually to fund these advanced network security services for all K–12 schools. The Petitioners also asked the Commission to increase the current Category Two budgets to include additional funding for advanced firewall and other network security services.

3. In October 2021, the President signed the K–12 Cybersecurity Act of 2021, which directed the U.S. Department of Homeland Security to conduct a study of K–12 cybersecurity risks that addresses the specific risks that impact K–12 educations institutions; evaluates cybersecurity challenges K–12 educational institutions face; and identifies cybersecurity challenges related to remote learning. The Bureau declined to expand the eligibility of advanced firewalls and services or add additional network security services for funding year 2022, explaining that ''this legislation and forthcoming report will provide invaluable insights into what cybersecurity services will be most impactful for K–12 educational institutions.''

4. As part of the funding year 2023 ESL proceeding, a diverse group of E-Rate stakeholders submitted comments, reply comments, and ex parte submissions requesting that the Commission reconsider its earlier eligibility decisions and clarify that advanced or next-generation firewalls and services are eligible for E-Rate support. As part of this proceeding, AASA, along with 19 other national educational organizations, requested that the Commission take a measured approach in deciding whether to expand the eligibility of advanced firewalls and services, as well as other cybersecurity services. These stakeholders urge the Commission to work collaboratively with other federal agencies to ''determine the products and services that are available and effective in responding to and preventing cyberattacks . . . schools should not be driving the response to cyberattacks, nor should E-Rate, the only federal funding stream supporting connectivity in schools, be repurposed/redirected for this important effort.''

5. On October 20, 2022, the U.S. Government Accountability Office (GAO) published a report finding that additional federal coordination is needed to enhance K–12 school cybersecurity. The GAO recommended that the Secretary of Education: (1) establish a collaborative mechanism, such as a government coordinating council, to coordinate cybersecurity efforts between federal agencies and with the K–12 school community; (2) develop metrics for obtaining feedback to measure the effectiveness of the Department of Education's cybersecurity-related products and services for school districts; and (3) coordinate with the Cybersecurity and Infrastructure Security Agency (CISA) to determine how best to help school districts overcome the identified challenges and consider the identified opportunities for addressing cyber threats as appropriate. The GAO further recommended that the Secretary of the Department of Homeland Security should ensure that the Director of CISA develops metrics for measuring the effectiveness of its K–12 cybersecurity-related products and services that are available for school districts and determine the extent that CISA meets the needs of state and local-level school districts to combat cybersecurity threats.

6. Most recently, on November 15, 2022, the Commission received a proposal for a three-year pilot program to fund advanced firewalls and services as a Category Two service. FFL proposes that the Commission establish a three-year pilot program to fund advanced firewalls and services as a Category Two service. FFL also proposes that a funding cap of at least $60 million to $120 million be used as the funding cap for each of the three years. FFL further proposes that in the event demand exceeds available funds, that the pilot funding be prioritized to the applicants with the highest discount rates, and that the Commission deny funding for the remaining applicants with lower discount rates when the capped pilot funds are exhausted.

7. The Bureau seeks comment on these and other issues raised by the referenced petitions and filings. To focus our consideration of these

requests, the Bureau offers several more specific areas of inquiry in the following.

8. *Definition of Advanced or Next-Generation Firewalls and Services.* In the E-Rate program, firewall is currently defined as ''a hardware and software combination that sits at the boundary between an organization's network and the outside world, and protects the network against unauthorized access or intrusions.'' The Bureau seeks comment on this definition and, as discussed in the following, whether any modifications may be appropriate.

9. *Eligible Equipment and Services and their Costs. The Bureau further seeks comment on the* specific equipment and services that E-Rate should support to fund as advanced or next-generation firewalls and services, as well as the costs associated with funding these services. For example, Fortinet requests E-Rate support for advanced or next-generation firewalls and services that include the following capabilities: intrusion prevention/intrusion detection (IPS/IDS); virtual private networks; distributed denial-of-service (DDoS) protection; and network access control (NAC). FFL suggests advanced firewall features should include ''intrusion detection/prevention, malware detection/filtering, application control/visibility, antispam services, URL/DNS filtering, and endpoint-related protections.'' What are the advanced or next-generation firewalls and services needed to protect schools' and libraries' broadband networks from cyberattacks? What advanced firewall services should be considered to be eligible ''advanced or next-generation services'' for E-Rate support? How should funding for these advanced services be prioritized, given that there is not sufficient E-Rate support to fund every advanced or next-generation firewall service? For example, should end-point related protections be excluded from E-Rate eligible ''advanced or next-generation firewalls and services? Why or why not? The Bureau also seeks comment on whether firewall as a service (FWaaS) should be eligible for E-Rate support. The Bureau encourages schools, libraries, and other stakeholders that have recent experience with advanced firewall services and the related-costs to provide specific information about the services they are purchasing, the costs they are paying, and what they have done to ensure these services and equipment are sufficient to protect their broadband networks and that the costs are reasonable.

10. Considering the E-Rate program's limited funds and the evolving connectivity needs of schools and libraries, should the Commission expand E-Rate support to fund advanced or next-generation firewalls and services, or continue to fund only basic firewalls and services as is currently allowed in the E-Rate program? Why or why not? Do commenters believe that expanding support to include advanced or next-generation firewalls and services is a prudent use of limited E-Rate funds? Would doing so affect the E-Rate program's longstanding goal of basic connectivity? Instead of expanding the eligibility of firewalls and services at this time, should the Commission continue working with its federal partners, including CISA and the Department of Education to develop a holistic approach to address and prevent cyberattacks against the K–12 schools and libraries? For example, are any non-E-Rate funded services and equipment needed to fully address and prevent these cyberattacks, such as training and implementing a cybersecurity framework and program at each school and library? Will providing funding only for advanced or next-generation firewalls and services be sufficient to protect K–12 schools' and libraries networks from cyberattacks? Is the amount of E-Rate funding allowed under its funding cap sufficient to cover all of the eligible schools' and libraries' connectivity needs, as well as their advanced firewall and other network security services? The Bureau seeks comment on these questions.

11. *Categorization of Firewall Services and Components.* Currently, pursuant to the Commission's rules, basic firewall service provided as part of the vendor's internet access service is eligible as a Category One service. Separately priced basic firewall services and components are eligible as a Category Two service. The Bureau seeks comment on whether advanced or next-generation firewall services and components should be eligible as a Category One and/or Category Two service. For example, if FWaaS is determined eligible for E-Rate support, should FWaaS be eligible for Category One and/or Category Two support? Should advanced or next-generation firewalls and services only be eligible for Category Two support and subject to the applicant's five-year Category Two budget? Why or why not? If advanced firewall or next generation services should be eligible as both a Category One and Category Two service, how should the Commission delineate these services as a Category One and as a Category Two service? The Bureau seeks comment on these questions.

12. *Cost-Effective Purchases.* If the Commission makes advanced or next-generation firewall services eligible as only Category Two service, would this be an effective way to ensure applicants are making cost-effective choices when requesting these services and equipment? Are there other measures the Commission could adopt to ensure cost-effective purchases of advanced or next-generation firewalls and services are being made? Should funding be limited to only cloud-based advanced or next-generation firewalls and services to ensure funding is not spent on firewall equipment that will need to be replaced every three to five years? What are other steps the Commission could take to ensure that limited E-Rate funds are cost-effectively used for advanced or next-generation firewalls and services? How can these limited funds be allocated to ensure applicants are making cost-effective purchases? What steps should the Commission take to ensure the constrained E-Rate funds are available for its primary purposes of bringing connectivity to and within the schools and libraries in light of the significant annual costs associated with advanced or next-generation firewalls and services?

13. *Legal Issues.* Sections 254(c)(1), (c)(3), (h)(1)(B), and (h)(2) of the Communications Act collectively grant the Commission broad and flexible authority to set the list of services that will be supported for eligible schools and libraries, as well as to design the specific mechanisms of support. CoSN and Fortinet agree, and urge the Commission to use its statutory authority to extend E-Rate eligibility to advanced or next-generation firewalls and services. The Bureau invites other stakeholders to comment on the Commission's legal authority to add advanced or next-generation firewalls and services as an eligible service for the E-Rate program. Do other stakeholders agree that the addition of these services is within the scope of the Commission's legal authority? Are there other legal issues or concerns the Commission should consider before extending E-Rate support to advanced or next-generation firewalls and services? Are there statutory limitations that the Commission should consider? What are these limitations? The Bureau seeks comment on these questions.

Federal Communications Commission.

Cheryl Callahan,

Assistant Chief, Telecommunications Access Policy Division, Wireline Competition Bureau.

[FR Doc. 2022–28657 Filed 1–5–23; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 22–436; RM–11941; DA 22–1281; FR ID 120700]

Television Broadcasting Services Lufkin, Texas

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Federal Communications Commission (the Commission) has before it a petition for rulemaking filed by Gray Television Licensee, LLC (Petitioner), the licensee of KTRE, channel 9, Lufkin, Texas. The Petitioner requests the substitution of channel 24 for channel 9 at Lufkin in the Table of TV Allotments.

DATES: Comments must be filed on or before February 6, 2023 and reply comments on or before February 21, 2023.

ADDRESSES: Federal Communications Commission, Office of the Secretary, 45 L Street NE, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve counsel for the Petitioner as follows: Joan Stewart, Esq., Wiley Rein LLP, 2050 M Street NW, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Joyce Bernstein, Media Bureau, at (202) 418–1647; or Joyce Bernstein, Media Bureau, at *Joyce.Bernstein@fcc.gov.*

SUPPLEMENTARY INFORMATION: In support, the Petitioner states that the proposed channel substitution serves the public interest because it will resolve significant over-the-air reception problems in KTRE's existing service area. The Petitioner further states that the Commission has recognized the deleterious effects manmade noise has on the reception of digital VHF signals, and that the propagation characteristics of these channels allow undesired signals and noise to be receivable at relatively farther distances compared to UHF channels and nearby electrical devices can cause interference. The Petitioner further states that the existing KTRE tower has significantly deteriorated and cannot be reasonably repaired, and thus it proposes to relocate the proposed KTRE facility on channel 24 to an adjacent, shorter tower.[1] Although that facility would result in a slight reduction in KTRE's predicted population served, once terrain-limited coverage predications and coverage of same-network (ABC) alternative stations are taken into account, the Engineering Statement submitted with the petition demonstrates that only 448 persons will lose ABC network service, a number which the Commission considers *de minimis.*

This is a synopsis of the Commission's *Notice of Proposed Rulemaking,* MB Docket No. 22–436; RM–11941; DA 22–1281, adopted December 9, 2022, and released December 9, 2022. The full text of this document is available for download at *https://www.fcc.gov/edocs.* To request materials in accessible formats (braille, large print, computer diskettes, or audio recordings), please send an email to *FCC504@fcc.gov* or call the Consumer & Government Affairs Bureau at (202) 418–0530 (VOICE), (202) 418–0432 (TTY).

This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4). Provisions of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, do not apply to this proceeding.

Members of the public should note that all *ex parte* contacts are prohibited from the time a Notice of Proposed Rulemaking is issued to the time the matter is no longer subject to Commission consideration or court review, *see* 47 CFR 1.1208. There are, however, exceptions to this prohibition, which can be found in Section 1.1204(a) of the Commission's rules, 47 CFR 1.1204(a).

See Sections 1.415 and 1.420 of the Commission's rules for information regarding the proper filing procedures for comments, 47 CFR 1.415 and 1.420.

[1] Petition at 3–4.

List of Subjects in 47 CFR Part 73

Television.

Federal Communications Commission.

Thomas Horan,

Chief of Staff, Media Bureau.

Proposed Rule

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICE

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 155, 301, 303, 307, 309, 310, 334, 336, 339.

■ 2. In § 73.622, in paragraph (j), amend the Table of TV Allotments under ''Texas'' by revising the entry for ''Lufkin'' to read as follows:

§ 73.622 Table of TV Allotments.

* * * * *

(j) * * *

Community	Channel No.
* * * * *	
TEXAS	
* * * * *	
Lufkin	24
* * * * *	

[FR Doc. 2022–28332 Filed 1–5–23; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register
Vol. 88, No. 4
Friday, January 6, 2023

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

AGENCY FOR INTERNATIONAL DEVELOPMENT

30-Day Notice of Proposed Information Collection: Partner Information Form (PIF)

AGENCY: U.S. Agency for International Development.

ACTION: Notice of request for public comment.

SUMMARY: The U.S. Agency for International Development (USAID) seeks Office of Management and Budget (OMB) approval for the information collection described below. In accordance with the Paperwork Reduction Act of 1995, USAID requests public comment on this collection from all interested individuals and organizations. The purpose of this notice is to allow 30 days for public comment preceding submission of the collection to OMB.

DATES: Comments must be received no later than February 6, 2023.

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 or;

• *Mail, Hand Delivery, or Courier:* USAID, Bureau for Management, Office of Management Policy, Budget, and Performance (M/MPBP), 500 D St. SW, Washington, DC 20547.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Ruth Buckley at (202) 921–5068, via email at *rulemaking@usaid.gov,* or via mail at USAID, Bureau for Management, Office of Management Policy, Budget, and Performance (M/MPBP), 500 D St. SW, Washington, DC 20547.

SUPPLEMENTARY INFORMATION:

Instructions

All comments must be in writing and submitted through one of the methods specified in the **ADDRESSES** section above. All submissions (and attachments) must include the form number, information collection title, and OMB control number. Please include your name, title, organization, postal address, telephone number, and email address in the text of the message. Please note that USAID recommends sending all comments via email or via the Federal eRulemaking Portal because security screening precautions have slowed the delivery and dependability of surface mail to USAID/Washington. Please note that comments submitted in response to this Notice are public record. We recommend that you do not submit detailed personal information, Confidential Business Information (CBI), or any information that is otherwise protected from disclosure by statute. USAID will only address comments that explain why this form would be inappropriate, ineffective, or unacceptable without a change. Comments that are insubstantial or outside the scope of the notice of request for public comment may not be considered.

Overview of Information Collection

• *Title of Information Collection:* Partner Information Form.

• *OMB Control Number:* 0412–0577.

• *Type of Request:* Revision of a currently approved collection.

• *Originating Office:* Bureau for Management, Office of Management Policy, Budget, and Performance (M/MPBP).

• *Form Number:* AID 500–13.

• *Respondents:* Potential awardees and subawardees.

• *Estimated Annual Number of Responses:* 3,600.

• *Average Time per Response:* 1 hour 30 minutes.

• *Total Estimated Burden Time:* 5,400 hours.

• *Frequency:* On occasion.

• *Obligation to Respond:* Voluntary.

USAID solicits public comments on the following:

• Evaluate whether the proposed information collection is necessary for the proper functions of the Agency.

• Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.

• Enhance the quality, utility, and clarity of the information to be collected.

• Minimize the reporting burden on respondents, including the use of automated collection techniques or other forms of information technology.

Abstract of Proposed Collection

USAID collects information from individuals and organizations to conduct screening to help ensure that USAID funds, USAID-funded activities, or other resources will not be used to provide support to entities or individuals deemed to be a risk to national security.

USAID vets prospective awardees seeking funding from USAID to mitigate the risk that such funds might benefit entities or individuals who present a national security risk. To conduct vetting, USAID collects information from prospective awardees and subawardees regarding their directors, officers, and/or key employees. The information collected is compared to information gathered from commercial, public, and U.S. government databases to determine the risk that the applying organization or individual might use Agency funds or programs in a way that presents a threat to national security.

Methodology

USAID collects information via mail or electronic submission.

Ruth Buckley,

Director, Bureau for Management, Office of Management Policy, Budget, and Performance, U.S. Agency for International Development.

[FR Doc. 2022–28665 Filed 1–5–23; 8:45 am]

BILLING CODE 6116–01–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Summer Food Service Program; 2023 Reimbursement Rates

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This notice informs the public of the annual adjustments to the reimbursement rates for meals served in the Summer Food Service Program for Children. These adjustments address changes in the Consumer Price Index, as required under the Richard B. Russell National School Lunch Act. The 2023 reimbursement rates are presented as a combined set of rates to highlight simplified cost accounting procedures. The 2023 rates are also presented individually, as separate operating and administrative rates of reimbursement, to show the effect of the Consumer Price Index adjustment on each rate.

DATES: This adjustment is applicable January 1, 2023.

FOR FURTHER INFORMATION CONTACT: Penny Burke, Program Monitoring and Operational Support Division, Child Nutrition Programs, Food and Nutrition Service, United States Department of Agriculture, 1320 Braddock Place, Suite 401, Alexandria, Virginia 22314, (303) 844–0357.

SUPPLEMENTARY INFORMATION: The Summer Food Service Program (SFSP) is listed in the Catalog of Federal Domestic Assistance under No. 10.559 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 2 CFR, 415 and final rule-related notice published at 48 FR 29114, June 24, 1983.)

In accordance with the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520, no new recordkeeping or reporting requirements have been included that are subject to approval from the Office of Management and Budget.

This notice is not a rule as defined by the Regulatory Flexibility Act, 5 U.S.C. 601–612, and thus is exempt from the provisions of that Act. Additionally, this notice has been determined to be exempt from formal review by the Office of Management and Budget under Executive Order 12866.

Definitions

The terms used in this notice have the meaning ascribed to them under 7 CFR part 225 of the SFSP regulations.

Background

This notice informs the public of the annual adjustments to the reimbursement rates for meals served in SFSP. In accordance with sections 12(f) and 13, 42 U.S.C. 1760(f) and 1761, of the Richard B. Russell National School Lunch Act (NSLA) and SFSP regulations under 7 CFR part 225, the United States Department of Agriculture announces the adjustments in SFSP payments for meals served to participating children during calendar year 2023.

The 2023 reimbursement rates are presented as a combined set of rates to highlight simplified cost accounting procedures. Reimbursement is based solely on a ''meals times rates'' calculation, without comparison to actual or budgeted costs.

Sponsors receive reimbursement that is determined by the number of reimbursable meals served, multiplied by the combined rates for food service operations and administration. However, the combined rate is based on separate operating and administrative rates of reimbursement, each of which is adjusted differently for inflation.

Calculation of Rates

The combined rates are constructed from individually authorized operating and administrative reimbursements. Simplified procedures provide flexibility, enabling sponsors to manage their reimbursements to pay for any allowable cost, regardless of the cost category. Sponsors remain responsible, however, for ensuring proper administration of the Program, while providing the best possible nutrition benefit to children.

The operating and administrative rates are calculated separately. However, the calculations of adjustments for both cost categories are based on the same set of changes in the *Food Away from Home* series of the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics of the United States Department of Labor. They represent a 8.5 percent increase in this series for the 12-month period, from November 2021 through November 2022 (from 315.481 in November 2021 to 342.266 in November 2022).

Table of 2023 Reimbursement Rates

Presentation of the 2023 maximum per meal rates for meals served to children in SFSP combines the results from the calculations of operational and administrative payments, which are further explained in this notice. The total amount of payments to State agencies for disbursement to SFSP sponsors will be based upon these adjusted combined rates and the number of meals of each type served. These adjusted rates will be in effect from January 1, 2023 through December 31, 2023.

These changes are reflected below.

All States except Alaska and Hawaii—Rural or Self-prep Sites—Breakfast—2 dollars and 82.50 cents (22 cent increase from the 2022 reimbursement rate), Lunch or Supper—4 dollars and 95 cents (38.75 cent increase), Snack—1 dollar and 16.75 cents (9 cent increase); All Other Types of Sites—Breakfast—2 dollars and 77.25 cents (21.75 cent increase), Lunch or Supper—4 dollars and 87 cents (38.25 cent increase), Snack—1 dollar and 14 cents (8.75 cent increase).

Alaska—Rural or Self-prep Sites—Breakfast—4 dollars and 58.25 cents (36.25 cent increase), Lunch or Supper—8 dollars and 3 cents (63 cent increase), Snack—1 dollar and 89.75 cents (14.75 cent increase); All Other Types of Sites—Breakfast—4 dollars and 49.75 cents (35.75 cent increase), Lunch or Supper—7 dollars and 90 cents (62 cent increase), Snack—1 dollar and 85.25 cents (14.25 cent increase).

Hawaii—Rural or Self-prep Sites—Breakfast—3 dollars and 30.75 cents (26.25 cent increase), Lunch or Supper—5 dollars and 79.75 cents (45.25 cent increase), Snack—1 dollar and 37 cents (10.25 cent increase); All Other Types of Sites—Breakfast—3 dollars and 24.50 cents (25.75 cent increase), Lunch or Supper—5 dollars and 70.50 cents (44.50 cent increase), Snack—1 dollar and 33.75 cents (10 cent increase).

2022 Reimbursement Rates (Combined)

Per Meal Rates in whole or fractions of U.S. dollars	All States except Alaska and Hawaii	All States except Alaska and Hawaii	Alaska	Alaska	Hawaii	Hawaii
Site Types	Rural or Self-prep Sites	All Other Types of Sites	Rural or Self-prep Sites	All Other Types of Sites	Rural or Self-prep Sites	All Other Types of Sites
Breakfast	2.8250	2.7725	4.5825	4.4975	3.3075	3.2450
Lunch or Supper	4.9500	4.8700	8.0300	7.9000	5.7975	5.7050
Snack	1.1675	1.1400	1.8975	1.8525	1.3700	1.3375

Operating Rates

The portion of the SFSP rates for operating costs is based on payment amounts set in section 13(b)(1) of the NSLA, 42 U.S.C. 1761(b)(1). They are rounded down to the nearest whole cent, as required by section 11(a)(3)(B)(iii) of the NSLA, 42 U.S.C. 1759a(a)(3)(B)(iii).

These changes are reflected below.

All States except Alaska and Hawaii—Breakfast—2 dollars and 57 cents (20 cents increase from the 2022 reimbursement rate), Lunch or Supper—4 dollars and 48 cents (35 cents increase), Snack—1 dollar and 4 cents (8 cents increase).

Alaska—Breakfast—4 dollars and 17 cents (33 cents increase), Lunch or Supper—7 dollars and 27 cents (57 cents increase), Snack—1 dollar and 69 cents (13 cents increase).

Hawaii—Breakfast—3 dollars and 1 cent (24 cents increase), Lunch or Supper—5 dollars and 25 cents (41 cents increase), Snack—1 dollar and 22 cents (9 cents increase).

Operating Component of 2023 Reimbursement Rates

Operating Rates in U.S. dollars, rounded down to the nearest whole cent	All States except Alaska and Hawaii	Alaska	Hawaii
Breakfast	2.57	4.17	3.01
Lunch or Supper	4.48	7.27	5.25
Snack	1.04	1.69	1.22

Administrative Rates

The administrative cost component of the reimbursement is authorized under section 13(b)(3) of the NSLA, 42 U.S.C. 1761(b)(3). Rates are higher for sponsors of sites located in rural areas and for ''self-prep'' sponsors that prepare their own meals at the SFSP site or at a central facility instead of purchasing them from vendors. The administrative portion of SFSP rates are adjusted, either up or down, to the nearest quarter-cent.

These changes are reflected below.

All States except Alaska and Hawaii—Rural or Self-prep Sites—Breakfast—25.50 cents (2 cent increase from the 2022 reimbursement rate), Lunch or Supper—47 cents (3.75 cent increase), Snack—12.75 cents (1 cent increase); All Other Types of Sites—Breakfast—20.25 cents (1.75 cent increase), Lunch or Supper—39 cents (3.25 cent increase), Snack 10 cents (0.75 cent increase).

Alaska—Rural or Self-prep Sites—Breakfast—41.25 cents (3.25 cent increase), Lunch or Supper—76 cents (6 cent increase), Snack—20.75 cents (1.75 cent increase); All Other Types of Sites—Breakfast—32.75 cents (2.75 cent increase), Lunch or Supper—63 cents (5 cent increase), Snack—16.25 cents (1.25 cent increase).

Hawaii—Rural or Self-prep Sites—Breakfast—29.75 cents (2.25 cent increase), Lunch or Supper—54.75 cents (4.25 cent increase), Snack—15 cents (1.25 cent increase); All Other Types of Sites—Breakfast—23.50 cents (1.75 cent increase), Lunch or Supper—45.50 cents (3.50 cent increase), Snack—11.75 cents (1 cent increase).

Administrative Component of 2023 Reimbursement Rates

Administrative Rates in U.S. dollars, adjusted, up or down, to the nearest quarter-cent	All States except Alaska and Hawaii	All States except Alaska and Hawaii	Alaska	Alaska	Hawaii	Hawaii
Site Types	Rural or Self-prep Sites	All Other Types of Sites	Rural or Self-prep Sites	All Other Types of Sites	Rural or Self-prep Sites	All Other Types of Sites
Breakfast	0.2550	0.2025	0.4125	0.3275	0.2975	0.2350
Lunch or Supper	0.4700	0.3900	0.7600	0.6300	0.5475	0.4550
Snack	0.1275	0.1000	0.2075	0.1625	0.1500	0.1175

Authority: Sections 9, 13, and 14, Richard B. Russell National School Lunch Act, 42 U.S.C. 1758, 1761, and 1762a, respectively.

Cynthia Long,

Administrator, Food and Nutrition Service.

[FR Doc. 2023–00002 Filed 1–5–23; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF COMMERCE

Office of the Secretary

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Generic Clearance for Requests for Meetings and Registrations for Events and Conferences; Correction

AGENCY: Office of the Secretary, Commerce.

ACTION: Notice of information collection, correction.

SUMMARY: On December 28, 2022, the Department of Commerce, published a 60-day public comment period notice with FR Document Number 2022–28260 (Page 79855) seeking public comments for an information collection entitled, ''Generic Clearance for Requests for Meetings and Registrations for Events and Conferences.'' This document referenced incorrect information in the **ADDRESSES** section and the Method of Collection section, and Commerce hereby issues a correction notice as required by the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: For additional information concerning this correction, contact Sheleen Dumas, the Department Paperwork Reduction Act Clearance Officer, at *PRAcomments@doc.gov.*

SUPPLEMENTARY INFORMATION:

Correction

ADDRESSES: Interested persons are invited to submit written comments to the Department Paperwork Reduction Act Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW, Washington, DC 20230 or via the internet at *PRAcomments@doc.gov.* All comments received are part of the public record. Comments will generally be posted without change. Do not submit Confidential Business Information or otherwise sensitive or protected information.

Method of Collection

Information on this form will be collected using an electronic and paper format.

We are soliciting public comments to permit the Department/Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. 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 may 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.

Sheleen Dumas,

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

[FR Doc. 2023–00030 Filed 1–5–23; 8:45 am]

BILLING CODE 3510–17–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–907]

Sodium Nitrite From India: Final Affirmative Countervailing Duty Determination

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

SUMMARY: The U.S. Department of Commerce (Commerce) determines that countervailable subsidies are being provided to producers and exporters of sodium nitrite from India. The period of investigation is January 1, 2021, through December 31, 2021.

DATES: Applicable January 6, 2023.

FOR FURTHER INFORMATION CONTACT: Eva Kim, 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) 482–8283.

SUPPLEMENTARY INFORMATION:

Background

On June 21, 2022, Commerce published the *Preliminary Determination* in the **Federal Register**.[1] For a complete description of the events that followed the *Preliminary Determination, see* the Issues and Decision Memorandum.[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.*

Scope of the Investigation

The products covered by this investigation are sodium nitrite from India. For a complete description of the scope of this investigation, *see* Appendix I.

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation, and the issues raised in the case and rebuttal briefs by parties in this investigation, are discussed in the Issues and Decision Memorandum. For a list of the issues raised by parties, and to which we responded in the Issues and Decision Memorandum, *see* Appendix II of this notice.

Methodology

Commerce conducted this investigation in accordance with section 701 of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found to be countervailable, Commerce determines that there is a subsidy, *i.e.,* a financial contribution by an ''authority'' that gives rise to a benefit to the recipient and that the subsidy is specific.[3] For a full description of the methodology underlying our final determination, *see* the Issues and Decision Memorandum.

In making this final determination, Commerce relied, in part, on facts otherwise available, including adverse inferences, pursuant to sections 776(a) and (b) of the Act. For a full discussion of our application of facts available (AFA), *see* the section ''Use of Facts Available and Adverse Inferences'' in the accompanying Issues and Decision Memorandum.

Verification

Consistent with section 782(i) of the Act, in October 2022, Commerce verified all information reported by Deepak Nitrite Limited (Deepak). We used standard verification procedures, including an examination of relevant accounting records and original source documents provided by the respondent.[4]

Changes Since the Preliminary Determination

Based on our review and analysis of the information at verification and comments received from interested parties, we made certain changes to the subsidy rate calculations for Deepak. Consequently, Commerce also revised the all-others rate. For a discussion of these changes, *see* the Issues and Decision Memorandum.

All-Others Rate

In accordance with section 705(c)(1)(B)(i)(I) of the Act, we calculated an individual estimated countervailable subsidy rate for the sole mandatory respondent, Deepak. Section 705(c)(5)(A)(i) of the Act states that, for companies not individually investigated, Commerce will determine an all-others rate equal to the weighted-average countervailable subsidy rates established for exporters and/or producers individually investigated, excluding any zero and *de minimis* countervailable subsidy rates, and any rates determined entirely under section 776 of the Act.

In this investigation, Commerce calculated a net countervailable subsidy rate for Deepak, the only individually examined exporter/producer in this investigation. Because the only subsidy rate calculated in this investigation is not zero, *de minimis,* or based entirely on facts otherwise available, the net countervailable subsidy rate calculated for Deepak is the subsidy rate assigned to all other producers and exporters, pursuant to section 705(c)(5)(1)(A)(i) of the Act.

Final Determination

Commerce determines that the following estimated net countervailable subsidy rates exist:

Company	Subsidy rate (percent *ad valorem*)
Deepak Nitrite Limited	2.40
All Others	2.40

Disclosure

Commerce intends to disclose to interested parties its calculations performed in this final determination within five days of any public announcement, or if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

As a result of our *Preliminary Determination* and pursuant to sections 703(d)(1)(B) and (d)(2) of the Act, we instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise from India that were entered, or withdrawn from warehouse, for consumption, on or after June 21, 2022, which is the date of publication of the *Preliminary Determination* in the **Federal Register**. In accordance with section 703(d) of the Act, we instructed CBP to discontinue the suspension of liquidation of all entries of subject merchandise entered or withdrawn from warehouse, on or after October 19, 2022, but to continue the suspension of liquidation of all entries of subject merchandise between June 21, 2022, and October 18, 2022.

If the U.S. International Trade Commission (ITC) issues a final affirmative injury determination, we will issue a countervailing duty order and require a cash deposit of estimated countervailing duties for such entries of subject merchandise in the amounts indicated above, in accordance with section 706(a) of the Act. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated, and all estimated duties deposited as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, Commerce will notify the ITC of its final affirmative determination that countervailable subsidies are being provided to producers and exporters of sodium nitrite from India. As Commerce's final determination is affirmative, in accordance with section

[1] *See Sodium Nitrite from India: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With the Final Antidumping Duty Determination,* 87 FR 36824 (June 21, 2022) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum.

[2] *See* Memorandum, ''Issues and Decision Memorandum for the Final Determination of the Countervailing Duty Investigation of Sodium Nitrite from India,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[3] *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.

[4] *See* Memorandum, ''Verification of the Questionnaire Responses of Deepak Nitrite Limited,'' dated October 19, 2022.

705(b) of the Act, the ITC will determine, within 45 days, whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of sodium nitrite from India. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Enforcement and Compliance. If the ITC determines that material injury or threat of material injury does not exist, this proceeding will be terminated, and all cash deposits will be refunded. If the ITC determines that such injury does exist, Commerce will issue a countervailing duty order directing CBP to assess, upon further instruction by Commerce, countervailing duties on all imports of the subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the ''Continuation of Suspension of Liquidation'' section.

Notification Regarding APO

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to the APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act, and 19 CFR 351.210(c).

Dated: December 30, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The product covered by this investigation is sodium nitrite in any form, at any purity level. In addition, the sodium nitrite covered by this investigation may or may not contain an anticaking agent. Examples of names commonly used to reference sodium nitrite are nitrous acid, sodium salt, anti-rust, diazotizing salts, erinitrit, and filmerine. Sodium nitrite's chemical composition is NaNO2, and it is generally classified under subheading 2834.10.1000 of the Harmonized Tariff Schedule of the United States (HTSUS). The American Chemical Society Chemical Abstract Service (CAS) has assigned the name ''sodium nitrite'' to sodium nitrite. The CAS registry number is 7632–00–0. For purposes of the scope of this investigation, the narrative description is dispositive, not the tariff heading, CAS registry number or CAS name, which are provided for convenience and customs purposes.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

[FR Doc. 2023–00073 Filed 1–5–23; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–909]

Barium Chloride From India: Final Affirmative Countervailing Duty Determination

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

SUMMARY: The U.S. Department of Commerce (Commerce) determines that countervailable subsidies are being provided to producers and exporters of barium chloride from India.

DATES: Applicable January 6, 2023.

FOR FURTHER INFORMATION CONTACT: Tyler Weinhold or Harrison Tanchuck, 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) 482–1121 or (202) 482–7421, respectively.

SUPPLEMENTARY INFORMATION:

Background

On June 17, 2022, Commerce published the *Preliminary Determination* in the **Federal Register**.[1] For a complete description of the events that followed the *Preliminary Determination, see* the Issues and Decision Memorandum.[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

[1] *See Barium Chloride from India: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination with Final Antidumping Duty Determination,* 87 FR 36460 (June 17, 2022) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum.

[2] *See* Memorandum, ''Issues and Decision Memorandum for the Final Determination of the Countervailing Duty Investigation of Barium Chloride from India,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Period of Investigation

The period of investigation is January 1, 2021, through December 31, 2021.

Scope of the Investigation

The product covered by this investigation is barium chloride from India. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

On July 6, 2022, Commerce issued the Preliminary Scope Memorandum.[3] Commerce received no comments from interested parties on the Preliminary Scope Memorandum. Thus, Commerce made no changes to the scope of this investigation since the *Preliminary Determination.*

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation, and the issues raised in the case and rebuttal briefs by parties in this investigation, are discussed in the Issues and Decision Memorandum. For a list of the issues raised by parties, and to which we responded in the Issues and Decision Memorandum, *see* Appendix II.

Methodology

Commerce conducted this investigation in accordance with section 701 of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found countervailable, Commerce determines that there is a subsidy, *i.e.,* a financial contribution by an ''authority'' that gives rise to a benefit to the recipient, and that the subsidy is specific.[4] For a full description of the methodology underlying our final determination, *see* the Issues and Decision Memorandum.

Verification

Commerce was unable to conduct on-site verification of the information relied upon in making its final determination in this investigation. However, we conducted virtual verification, via Webex, to verify the information relied upon in making this final determination, in accordance with section 782(i) of the Act.[5]

Changes Since the Preliminary Determination

Based on our review and analysis of the information received during verification and comments received from parties, for this final determination, we made certain changes to the countervailable subsidy rate calculations for Chaitanya Chemicals and for all other producers/exporters. For a discussion of these changes, *see* the Issues and Decision Memorandum.

All-Others Rate

We continue to determine the all-others rate using the individual estimated countervailable subsidy rate determined for Chaitanya Chemicals, the only individually examined producer/exporter in this investigation, in accordance with section 705(c)(5)(A)(i) of the Act.

Final Determination

Commerce determines that the following estimated net countervailable subsidy rates exist:

Company	Subsidy rate (percent *ad valorem*)
Chaitanya Chemicals[6]	23.57
All Others	23.57

Disclosure

Commerce intends to disclose its calculations performed to interested parties in this final determination within five days of any public announcement, or if there is no public announcement, within five days of the publication of this notice, in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

As a result of our *Preliminary Determination,* and pursuant to sections 703(d)(1)(B) and (d)(2) of the Act, Commerce instructed U.S. Customs and Border Protection (CBP) to collect cash deposits and suspend liquidation of entries of subject merchandise as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after June 17, 2022, the date of publication of the *Preliminary Determination* in the **Federal Register**. In accordance with section 703(d) of the Act, we will instruct CBP to discontinue the suspension of liquidation of all entries of subject merchandise entered or withdrawn from warehouse, on or after October 15, 2022, but to continue the suspension of liquidation of all entries of subject merchandise on or after June 17, and on or before October 14, 2022.

If the U.S. International Trade Commission (ITC) issues a final affirmative injury determination, we will issue a countervailing duty order, reinstate the suspension of liquidation under section 706(a) of the Act, and require a cash deposit of estimated countervailing duties for such entries of subject merchandise in the amounts indicated above, in accordance with section 706(a) of the Act. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated, and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, Commerce will notify the ITC of its final affirmative determination that countervailable subsidies are being provided to producers and exporters of barium chloride from India. As Commerce's final determination is affirmative, in accordance with section 705(b) of the Act, the ITC will determine, within 45 days, whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of barium chloride from India. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Enforcement and Compliance.

Administrative Protective Order

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to the APO of their responsibility concerning the destruction of proprietary information disclosed under APO, in accordance with 19 CFR 351.305(a)(3). Timely

[3] *See* Memorandum, ''Antidumping and Countervailing Duty Investigations of Barium Chloride from India: Preliminary Scope Decision Memorandum,'' dated July 6, 2022 (Preliminary Scope Memorandum).

[4] *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.

[5] *See* Memoranda, ''Verification of the Responses of the Government of India,'' dated November 8, 2022; and ''Verification of the Responses of Chaitanya Chemicals and its Affiliates,'' dated November 8, 2022.

[6] As discussed in the Issues and Decision Memorandum, Commerce has found the following company to be cross-owned with Chaitanya Chemicals: Chaitanya Barium (India) Private Limited.

written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act, and 19 CFR 351.210(c).

Dated: December 30, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is barium chloride, a chemical compound having the formulas BaCl2 or BaCl2–2H2O, currently classifiable under subheading 2827.39.4500 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

[FR Doc. 2023–00086 Filed 1–5–23; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–979]

Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review, Partial Rescission of Antidumping Administrative Review, and Preliminary Determination of No Shipments; 2020–2021

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that, with the exception of the nine companies with no shipments, 14 companies under review sold subject merchandise at less than normal value during the period of review (POR), December 1, 2020, through November 30, 2021, and one did not sell merchandise below normal value. Commerce also preliminarily determines that 19 companies subject to this review are part of the China-wide entity because they did not demonstrate their eligibility for a separate rate. Additionally, Commerce is rescinding this review with respect to 11 companies. Interested parties are invited to comment on these preliminary results of review.

DATES: Applicable January 6, 2023.

FOR FURTHER INFORMATION CONTACT: Jeff Pedersen, Dakota Potts or Paola Aleman Ordaz, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2769, (202) 482–0223, or (202) 482–4031, respectively.

SUPPLEMENTARY INFORMATION:

Background

On February 4, 2022, in response to review requests from multiple parties, Commerce initiated an administrative review of the antidumping duty order on crystalline silicon photovoltaic cells, whether or not assembled into modules (solar cells), from the People's Republic of China (China) with respect to 54 exporters.[1] The POR is December 1, 2020, through November 30, 2021. On August 23, 2022, Commerce extended the time limit for completing the preliminary results of this review.[2] The extended deadline for issuing the preliminary results of this review is December 30, 2022.

On March 18, 2022, Commerce selected two exporters to individually examine as mandatory respondents, Chint Solar (Zhejiang) Co., Ltd. (Chint Solar) and Shenzhen Glory Industries Co., Ltd. (Shenzhen Glory).[3] During the course of this review, the mandatory respondents filed responses to Commerce's questionnaire and supplemental questionnaires, the petitioner (the American Alliance for Solar Manufacturing) commented on those responses, and multiple other companies for which Commerce initiated the review filed either no-shipment claims or separate rate applications or certifications. For details regarding the events that occurred subsequent to the initiation of the review, *see* the Preliminary Decision Memorandum.[4]

Scope of the Order [5]

The merchandise covered by the order is crystalline silicon photovoltaic cells,

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 87 FR 6487, 6489–90 (February 4, 2022) (*Initiation Notice*).

[2] *See* Memorandum, ''Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review; 2020–2021,'' dated August 23, 2022.

[3] *See* Memorandum, ''Respondent Selection,'' dated March 18, 2022.

[4] *See* Memorandum ''Decision Memorandum for the Preliminary Results of the 2020–2021 Antidumping Duty Administrative Review of Crystalline Silicon Photovoltaic Cells, Whether or not Assembled into Modules, from the People's Republic of China,'' issued concurrently with and hereby adopted by this notice (Preliminary Decision Memorandum).

[5] *See Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China: Amended Final*

and modules, laminates, and panels, consisting of crystalline silicon photovoltaic cells, whether or not partially or fully assembled into other products, including, but not limited to, modules, laminates, panels and building integrated materials.[6] Merchandise covered by this order is currently classified under subheadings 8501.71.0000, 8501.72.1000, 8501.72.2000, 8501.72.3000, 8501.72.9000, 8501.80.1000, 8501.80.2000, 8501.80.3000, 8501.80.9000, 8507.20.8010, 8507.20.8031, 8507.20.8041, 8507.20.8061, 8507.20.8091, 8541.42.0010, and 8541.43.0010 of the Harmonized Tariff Schedule of the United States (HTSUS).[7] Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of the order is dispositive.

Preliminary Determination of No Shipments

We found no record evidence calling into question the no shipment claims of the following companies/company groupings: (1) BYD H.K. Co., Ltd.; (2) Canadian Solar International Limited, Canadian Solar Manufacturing (Changshu) Inc., Canadian Solar Manufacturing (Luoyang) Inc., CSI Cells Co., Ltd., CSI Solar Power (China) Inc., CSI–GCL Solar Manufacturing (Yancheng) Co., Ltd. (collectively, Canadian Solar); (3) CSI Modules (Dafeng) Co. Ltd.; (4) JA Solar Co., Ltd.; (5) JingAo Solar Co., Ltd. (JingAo); (6) Risen Energy Co. Ltd., Risen Energy (Changzhou) Co., Ltd., Risen (Wuhai) New Energy Co., Ltd., Zhejiang Twinsel Electronic Technology Co., Ltd., Risen (Luoyang) New Energy Co., Ltd., Jiujiang Shengchao Xinye Technology Co., Ltd., Jiujiang Shengzhao Xinye Trade Co., Ltd., Ruichang Branch, Risen Energy (HongKong) Co., Ltd.; (7) Shanghai BYD Co., Ltd.; (8) Xiamen Yiyusheng Solar Co., Ltd.; and (9) Zhejiang Aiko Solar Energy Technology Co., Ltd. Therefore, we have preliminarily determined that these nine companies/company groupings had no reviewable shipments of subject merchandise to the United States during the POR. For additional information regarding this preliminary determination, *see* the Preliminary Decision Memorandum. Consistent with our assessment in non-market economy (NME) administrative reviews,[8] Commerce is not rescinding this review for these nine companies. Commerce intends to complete this review and issue appropriate instructions to CBP based on the final results of this review.

Partial Rescission of Administrative Review

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if all parties that requested a review withdraw their requests within 90 days of the date of publication of the notice of initiation of the requested review. All parties timely withdrew their requests for an administrative review of the following companies: (1) Amass Freight International Co Ltd; (2) Boe Technology (HK) Limited; (3) Dongguan Sunworth Solar Energy Co.; (4) Jiangsu Crevo Science & Technology; (5) Jiangsu High Hope International; (6) Penglai Jutal Offshore Engineering; (7) Qinghuangdao Boostsolar Photovoltaic; (8) Shanghai Sansi Electronic; (9) Shanxi Hando Xinyu Technology Co., Ltd; (10) Zhejiang Garden Imp&Exp Co., Ltd.; and (11) Sunpower Corporation, System. Accordingly, Commerce is rescinding this review with respect to these companies, in accordance with 19 CFR 351.213(d)(1).

Preliminary Affiliation and Single Entity Determination

Consistent with Commerce's treatment of Chint Solar in the fifth administrative review of the *Order,* we have continued to find that Chint Solar is affiliated with certain companies, pursuant to section 771(33)(F) of the Tariff Act of 1930, as amended (the Act), and that they should be treated as a single entity, pursuant to 19 CFR 351.401(f)(1)–(2): (1) Chint Solar (Zhejiang) Co., Ltd.; (2) Chint New Energy Technology Co., Ltd. (f/k/a Chint New Energy Technology (Haining) Co., Ltd.; (3) Chint Solar (Hong Kong) Company Limited; (4) Chint Solar (Jiuquan) Co., Ltd.; (5) Haining Chint Solar Energy Technology Co., Ltd.; (6) Chint New Energy Technology (Yancheng) Co., Ltd.; (7) Chint Solar (Yancheng) Co., Ltd.; (8) Zhejiang Taiheng New Energy Co., Ltd.; and (9) Hangzhou Taifu New Energy Co., Ltd. For additional information, *see* the Preliminary Decision Memorandum.

Use of Facts Available (FA) and Adverse Facts Available (AFA)

Certain unaffiliated suppliers of solar cells and tollers of solar modules failed to provide factors of production (FOP) data for use in calculating the weighted-average dumping margin of Chint Solar. Because the unreported cell FOPs account for a small percentage of Chint Solar's total FOPs, and because Chint Solar produces merchandise comparable to the materials for which we are missing FOPs that we can substitute for the missing FOPs, we preliminarily determine to apply neutral facts available (FA), pursuant to section 776(a) of the Tariff Act of 1930, as amended (the Act), with respect to Chint Solar's unreported cell FOPs by substituting Chint Solar's own information for the unreported cell FOPs.

With regard to Shenzhen Glory, its solar cells suppliers failed to provide FOP data for use in calculating the weighted-average dumping margin of Shenzhen Glory. Because the unreported cell inputs FOPs represent a material amount of necessary information, and the solar cells suppliers are interested parties, we preliminarily determine to apply partial facts available with an adverse inference, pursuant to sections 776(a)(1), (2)(A)–(C), and 776(b) of the Act, with respect to Shenzhen Glory's missing solar cell inputs FOP data not reported by Shenzhen Glory's unaffiliated solar cell producers. For details regarding these determinations, *see* the Preliminary Decision Memorandum.

Separate Rates

We have preliminarily determined that the information placed on the record by Chint Solar and Shenzhen Glory, as well as by the other companies listed in the rate table in the ''Preliminary Results of Review'' section below, demonstrate that these companies are entitled to separate rate status.

We have preliminarily determined that the companies listed in Appendix II have not demonstrated their entitlement to a separate rate because they did not file a separate rate application or certification. Consequently, we are treating the companies listed in Appendix II as part of the China-wide entity. Because no party requested a review of the China-wide entity, the entity is not under review and the entity's rate (*i.e.,* 238.95

Determination of Sales at Less Than Fair Value, and Antidumping Duty Order, 77 FR 73018 (December 7, 2012) (*Order*).

[6] For a complete description of the scope of the order, *see* Preliminary Decision Memorandum.

[7] During the POR, solar cells and modules were primarily classified under USHTS subheadings 8541.40.6015 and 8541.40.6025. These two categories were updated to USHTS subheadings 8541.42.0010 and 8541.43.0010 in 2022.

[8] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694, 65694–95 (October 24, 2011) (*NME Assessment of Dumping Duties*).

percent [9]) is not subject to change.[10] For additional information regarding Commerce's preliminary separate rate determinations, *see* the Preliminary Decision Memorandum.

Dumping Margins for Separate Rate Companies

The statute and Commerce's regulations do not address what dumping margin to apply to respondents not selected for individual examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when calculating the dumping margin for non-selected respondents that are not individually examined in an administrative review. Section 735(c)(5)(A) of the Act states that the all-others rate should be calculated by averaging the weighted-average dumping margins calculated for individually-examined respondents, excluding dumping margins that are zero, *de minimis,* or based entirely on facts available. Because we calculated a preliminary dumping margin of zero or *de minimis* for Shenzhen Glory, and a preliminary dumping margin that is not zero, *de minimis,* or based entirely on facts available for Chint Solar, we assigned the separate rate recipients a dumping margin equal to Chint Solar's preliminary dumping margin and excluded Shenzhen Glory's *de minimis* dumping margin consistent with Commerce's practice and section 735(c)(5)(A) of the Act.

Methodology

Commerce is conducting this administrative review in accordance with section 751(a)(1)(B) of the Act. In determining the dumping margins in this review, we calculated export prices in accordance with section 772 of the Act. Because Commerce has determined that China is an NME country,[11] within the meaning of section 771(18) of the Act, we calculated normal value in this review in accordance with section 773(c) of the Act.

For a full description of the methodology underlying the preliminary results of this review, *see* the Preliminary Decision Memorandum. The Preliminary Decision Memorandum is a public document and is made available to the public via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be found at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Preliminary Results of Review

We are assigning the following dumping margins to the firms listed below for the period December 1, 2020, through November 30, 2021:

Exporter	Weighted-average dumping margin (percent)
Chint Energy (Haining) Co., Ltd.; Chint Solar (Hong Kong) Company Limited; Chint Solar (Jiuquan) Co., Ltd.; Chint Solar (Zhejiang) Co., Ltd.; Chint New Energy Technology (Yancheng) Co., Ltd.; Chint Solar (Yancheng) Co., Ltd.; Haining Chint Solar Energy Technology Co., Ltd.; Zhejiang Taiheng New Energy Co., Ltd.; Hangzhou Taifu New Energy Co., Ltd	28.98
Shenzhen Glory Industries Co., Ltd	0.00
Review-Specific Average Rate Applicable to the Following Companies	
Anji DaSol Solar Energy Science & Technology Co., Ltd	28.98
BYD (Shangluo) Industrial Co., Ltd	28.98
JA Solar Technology Yangzhou Co., Ltd	28.98
Jinko Solar Import and Export Co., Ltd; Jinko Solar Co., Ltd.; Jinko Solar (Haining) Co., Ltd. (f/k/a Jinko Solar Technology (Haining) Co., Ltd.); Yuhuan Jinko Solar Co., Ltd.; Zhejiang Jinko Solar Co., Ltd.; Jiangsu Jinko Tiansheng Solar Co., Ltd	28.98
LONGi Solar Technology Co., Ltd	28.98
Shanghai JA Solar Technology Co., Ltd	28.98
Shenzhen Topray Solar Co., Ltd	28.98
Shenzhen Yingli New Energy Resources Co., Ltd.; Baoding Jiasheng Photovoltaic Technology Co., Ltd.; Baoding Tianwei Yingli New Energy Resources Co., Ltd.; Beijing Tianneng Yingli New Energy Resources Co., Ltd.; Hainan Yingli New Energy Resources Co., Ltd.; Hengshui Yingli New Energy Resources Co., Ltd.; Lixian Yingli New Energy Resources Co., Ltd.; Tianjin Yingli New Energy Resources Co., Ltd.; Yingli Energy (China) Company Limited	28.98
Trina Solar Co., Ltd.; Trina Solar (Changzhou) Science and Technology Co., Ltd.; Yancheng Trina Guoneng Photovoltaic Technology Co., Ltd.; Changzhou Trina Solar Yabang Energy Co., Ltd.; Turpan Trina Solar Energy Co., Ltd.; Hubei Trina Solar Energy Co., Ltd.; Trina Solar (Hefei) Science and Technology Co., Ltd.; Changzhou Trina Hezhong Photoelectric Co., Ltd	28.98
Trina Solar (Singapore) Science and Technology Pte. Ltd	28.98
Trina Solar Energy Development Company Limited	28.98
Trina Solar Science & Technology (Thailand) Ltd	28.98
Wuxi Tianran Photovoltaic Co., Ltd	28.98

[9] The China-wide entity rate was last changed in the first administrative review of this proceeding and has been the applicable rate for the entity in each subsequent review, including the most recently completed review. *See Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2012–2013,* 80 FR 40998, 41002 (July 14, 2015) (*AR1 Final*); *see also Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2019–2020,* 87 FR 38379, 38381 (June 28, 2022) (*AR8 Final Results FR).*

[10] *See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings,* 78 FR 65963 (November 4, 2013).

[11] *See Antidumping Duty Investigation of Certain Aluminum Foil from the People's Republic of China: Affirmative Preliminary Determination of Sales at Less-Than-Fair Value and Postponement of Final Determination,* 82 FR 50858, 50861 (November 2, 2017) (citing Memorandum, ''China's Status as a Non-Market Economy,'' dated October 26, 2017 (China NME Status Memorandum)), unchanged in *Certain Aluminum Foil from the People's Republic of China: Final Determination of Sales at Less Than Fair Value,* 83 FR 9282 (March 5, 2018).

Disclosure and Public Comment

Commerce intends to disclose to parties to the proceeding the calculations performed for these preliminary results of review within five days of the date of publication of this notice in the **Federal Register** in accordance with 19 CFR 351.224(b). Interested parties may submit case briefs no later than 30 days after the date of publication of these preliminary results of review in the **Federal Register**.[12] Rebuttal briefs may be filed no later than seven days after case briefs are due and may respond only to arguments raised in the case briefs.[13] Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information until further notice.[14]

A table of contents, list of authorities used, and an executive summary of issues should accompany any briefs submitted to Commerce. The summary should be limited to five pages total, including footnotes.[15]

Interested parties who wish to request a hearing must submit a written request for a hearing to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice in the **Federal Register**.[16] Requests should contain the party's name, address, and telephone number, the number of individuals from the requesting party's firm(s) that will attend the hearing, and a list of the issues the party intends to discuss at the hearing. Oral arguments at the hearing will be limited to issues 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.[17] Parties should confirm by telephone the date and time of the hearing two days before the scheduled date of the hearing.

All submissions must be filed electronically using ACCESS.[18] An electronically filed document must be received successfully in its entirety by Commerce's electronic records system, ACCESS, by 5 p.m. Eastern Time (ET) on the due date.[19] Unless otherwise extended, Commerce intends to issue the final results of this administrative review, which will include the results of its analysis of issues raised in any briefs, within 120 days of publication of these preliminary results of review in the **Federal Register**, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuance of the final results of this review, Commerce will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review.[20] Commerce intends to issue assessment instructions to CBP no earlier than 35 days after date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

For each individually examined respondent in this review whose weighted-average dumping margin in the final results of review is not zero or *de minimis* (*i.e.,* less than 0.5 percent), Commerce intends to calculate importer/customer-specific assessment rates.[21] Where the respondent reported reliable entered values, Commerce intends to calculate importer/customer-specific *ad valorem* assessment rates by aggregating the amount of dumping calculated for all U.S. sales to the importer/customer and dividing this amount by the total entered value of the merchandise sold to the importer/customer.[22] Where the respondent did not report entered values, Commerce will calculate importer/customer-specific assessment rates by dividing the amount of dumping for reviewed sales to the importer/customer by the total quantity of those sales. Commerce will calculate an estimated *ad valorem* importer/customer-specific assessment rate to determine whether the per-unit assessment rate is *de minimis;* however, Commerce will use the per-unit assessment rate where entered values were not reported.[23] Where an importer/customer-specific *ad valorem* assessment rate is not zero or *de minimis,* Commerce will instruct CBP to collect the appropriate duties at the time of liquidation. Where either the respondent's weighted average dumping margin is zero or *de minimis,* or an importer/customer-specific *ad valorem* assessment rate is zero or *de minimis,* Commerce will instruct CBP to liquidate appropriate entries without regard to antidumping duties.[24]

For the respondents that were not selected for individual examination in this administrative review, but which qualified for a separate rate, the assessment rate will be based on the weighted-average dumping margin(s) assigned to the respondent(s) selected for individual examination, as appropriate, in the final results of this review.[25]

Pursuant to Commerce's refinement to its practice, for sales that were not reported in the U.S. sales database submitted by an exporter individually examined during this review, Commerce will instruct CBP to liquidate the entry of such merchandise at the dumping margin assigned to the China-wide entity.[26] Additionally, where Commerce determines that an exporter under review had no shipments of subject merchandise to the United States during the POR, any suspended entries of subject merchandise that entered under that exporter's CBP case number during the POR will be liquidated at the dumping margin assigned to the China-wide entity.

In accordance with section 751(a)(2)(C) of the Act, the final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated antidumping duties, where applicable.

Cash Deposit Requirements

Commerce will instruct CBP to require a cash deposit for antidumping duties equal to the weighted-average amount by which normal value exceeds U.S. price. The following cash deposit requirements apply to all subject merchandise from China entered, or

[12] *See* 19 CFR 351.309(c)(ii).

[13] *See* 19 CFR 351.309(d).

[14] *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).

[15] *See* 19 CFR 351.309(c)(2), (d)(2).

[16] *See* 19 CFR 351.310(c).

[17] *See* 19 CFR 351.310(d).

[18] *See generally* 19 CFR 351.303.

[19] *See* 19 CFR 351.303 (for general filing requirements); *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

[20] *See* 19 CFR 351.212(b)(1).

[21] *See Antidumping Proceedings: Calculation of the Weighted Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification,* 77 FR 8101 (February 14, 2012) (*Final Modification*).

[22] *See* 19 CFR 351.212(b)(1).

[23] *Id.*

[24] *See Final Modification,* 77 FR at 8103.

[25] *See Drawn Stainless Steel Sinks from the People's Republic of China: Preliminary Results of the Antidumping Duty Administrative Review and Preliminary Determination of No Shipments: 2014–2015,* 81 FR 29528 (May 12, 2016), and accompanying Issues and Decision Memorandum at 10–11, unchanged in *Drawn Stainless Steel Sinks from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; Final Determination of No Shipments; 2014–2015,* 81 FR 54042 (August 15, 2016).

[26] *See NME Assessment of Dumping Duties,* for a full discussion of this practice.

withdrawn from warehouse, for consumption on or after the date of publication of the notice of the final results of this review in the **Federal Register**, as provided by section 751(a)(2)(C) of the Act: (1) for the exporters listed in the table above, the cash deposit rate will be equal to the weighted-average dumping margin established in the final results of this review for the exporter (except, if the dumping margin is *de minimis* (*i.e.,* less than 0.5 percent), then the cash deposit rate will be zero for that exporter); (2) for previously investigated or reviewed Chinese and non-Chinese exporters that are not listed in the table above but that have separate rates, the cash deposit rate will continue to be the exporter-specific rate established in the most recently completed segment of this proceeding; (3) for all Chinese exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the rate for the China-wide entity (*i.e.,* 238.95 percent [27]) and (4) for all non-Chinese exporters of subject merchandise that have not received their own rate, the cash deposit rate will be the rate applicable to the China exporter that supplied that non-Chinese exporter. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties and/or countervailing duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties and/or countervailing duties has occurred, and the subsequent assessment of double antidumping duties, and/or an increase in the amount of antidumping duties by the amount of the countervailing duties.

Notification to Interested Parties

We are issuing and publishing these preliminary results of review in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213 and 351.221(b)(4).

[27] *See AR1 Final,* 80 FR at 41002.

Dated: December 30, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Sections in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope of the *Order*
IV. Partial Rescission of Administrative Review
V. Preliminary Determination of No Shipments
VI. Selection of Respondents
VII. Single Entity Treatment
VIII. Discussion of the Methodology
IX. Recommendation

Appendix II

Companies Preliminarily Determined To Be Part of the China-Wide Entity

1. De-Tech Trading Limited HK
2. Fuzhou Sunmodo New Energy Equipment
3. Hengdian Group DMEGC Magnetics Co. Ltd.
4. Jiawei Solarchina (Shenzhen) Co., Ltd.
5. Jiawei Solarchina Co., Ltd.
6. Jinko Solar International Limited
7. Lightway Green New Energy Co., Ltd.
8. Longi (HK) Trading Ltd.
9. Ningbo ETDZ Holdings, Ltd.
10. Ningbo Qixin Solar Electrical Appliance Co., Ltd.
11. Renesola Jiangsu Ltd.
12. ReneSola Zhejiang Ltd.
13. Shenzhen Sungold Solar Co., Ltd.
14. Sumec Hardware & Tools Co., Ltd.
15. Suntech Power Co., Ltd.
16. Taizhou BD Trade Co., Ltd.
17. tenKsolar (Shanghai) Co., Ltd
18. Wuxi Suntech Power Co., Ltd.; Luoyang Suntech Power Co., Ltd.
19. Yingli Green Energy International Trading Company Limited

[FR Doc. 2023–00069 Filed 1–5–23; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–908]

Barium Chloride From India: Final Negative Determination of Sales at Less Than Fair Value

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

SUMMARY: The U.S. Department of Commerce (Commerce) determines that barium chloride from India is not being, or is not likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is January 1, 2021, through December 31, 2021.

DATES: Applicable January 6, 2023.

FOR FURTHER INFORMATION CONTACT: Fred Baker, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2924.

SUPPLEMENTARY INFORMATION:

Background

On August 17, 2022, Commerce published the preliminary determination in the LTFV investigation of barium chloride from India, in which it also postponed the final determination until December 30, 2022.[1] Commerce invited interested parties to comment on the *Preliminary Determination.* For a complete description of the events that followed the *Preliminary Determination, see* the Issues and Decision Memorandum.[2]

Scope Comments

On July 6, 2022, we issued the Preliminary Scope Decision Memorandum.[3] The scope case briefs were due on July 20, 2022.[4] No parties filed scope case briefs addressing the Preliminary Scope Decision Memorandum. Therefore, Commerce has not made any changes to the scope of this investigation since the *Preliminary Determination.*

Scope of the Investigation

The product covered by this investigation is barium chloride from India. For a complete description of the scope of this investigation, *see* Appendix I.

Verification

Commerce was unable to conduct on-site verification of the information relied on in making its final determination in this investigation. However, in September and October 2022, we took additional steps in lieu of on-site verifications to verify the information relied on in making this final determination, in accordance with section 782(i) of the Tariff Act of 1930, as amended (the Act). Specifically, Commerce conducted virtual

[1] *See Barium Chloride from India: Preliminary Negative Determination of Sales at Less Than Fair Value, Postponement of Final Determination,* 87 FR 50602 (August 17, 2022) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum.

[2] *See* Memorandum, ''Decision Memorandum for the Final Negative Determination in the Less-Than-Fair-Value Investigation of Barium Chloride from India,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[3] *See* Memorandum, ''Antidumping and Countervailing Duty Investigations of Barium Chloride from India: Preliminary Scope Decision Memorandum,'' dated July 6, 2022 (Preliminary Scope Decision Memorandum).

[4] *Id.* at 1.

verifications of the home market sales, U.S. sales, and cost of production responses submitted by Chaitanya/CBI.[5]

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this investigation are discussed in the Issues and Decision Memorandum. A list of the issues raised in the Issues and Decision Memorandum is attached to this notice at Appendix II. The Issues and Decision Memorandum is a public document and is available 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.*

Changes Since the Preliminary Determination

Based on our analysis of the comments received from interested parties, we made certain changes to the margin calculations for Chaitanya/CBI. For a discussion of these changes, *see* the Issues and Decision Memorandum.

Final Determination

Commerce determines that the final estimated weighted-average dumping margin exists for the POI:

Exporter/producer	Estimated weighted-average dumping margin (percent)
Chaitanya Chemicals/Chaitanya Barium India Pvt Ltd	0.00

Commerce has not calculated an estimated weighted-average dumping margin for all other producers and exporters pursuant to sections 735(c)(1)(B) and (c)(5) of the Act, because it has not made a final affirmative determination of sales at LTFV.

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this final determination within five days of the date of publication of this notice, in accordance with 19 CFR 351.224(b).

Suspension of Liquidation

In the *Preliminary Determination,* the estimated weighted-average dumping margin for Chaitanya/CBI was zero percent and, therefore, we did not suspend liquidation of entries of barium chloride from India.[6] Because Commerce has made a final negative determination of sales at LTFV with regard to the subject merchandise, Commerce will not direct U.S. Customs and Border Protection to suspend liquidation or to require a cash deposit of estimated antidumping duties for entries of barium chloride from India.

U.S. International Trade Commission Notification

In accordance with section 735(d) of the Act, Commerce will notify the U.S. International Trade Commission of its final negative determination of sales at LTFV. As our final determination is negative, this proceeding is terminated in accordance with section 735(c)(2) of the Act.

Administrative Protective Order

This notice will serve as a reminder to the parties subject to an 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 or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Notification to Interested Parties

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act, and 19 CFR 351.210(c).

Dated: December 30, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is barium chloride, a chemical compound having the formulas BaCl2 or BaCl2–2H2O, currently classifiable under subheading 2827.39.4500 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

[5] Commerce has determined that Chaitanya Chemicals (Chaitanya) and Chaitanya Barium India Pvt Ltd. (CBI) should be treated as a single entity (collectively, Chaitanya/CBI), in accordance with section 771(33)(A) and (F) of the Act and 19 CFR 351.401(f). *See* Issues and Decision Memorandum at 4.

[6] *See Preliminary Determination,* 87 FR at 50603.

VIII. Recommendation

[FR Doc. 2023–00085 Filed 1–5–23; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–906]

Sodium Nitrite From India: Final Affirmative Determination of Sales at Less Than Fair Value

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

SUMMARY: The U.S. Department of Commerce (Commerce) determines that sodium nitrite from India is being, or is likely to be, sold in the United States at less than fair value (LTFV).

DATES: Applicable January 6, 2023.

FOR FURTHER INFORMATION CONTACT: Patrick Barton, or Joy Zhang, 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) 482–0012 or (202) 482–1168, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 17, 2022, Commerce published in the **Federal Register** the preliminary determination.[1] We invited interested parties to comment on the *Preliminary Determination.* We received comments on the *Preliminary Determination* from Deepak Nitrite Limited (Deepak) and Chemtrade Chemical US LLC (the petitioner) on November 14 and 15, respectively.[2] On November 21, 2022, the petitioner submitted a rebuttal brief.[3]

Period of Investigation

The period of investigation (POI) is January 1, 2021, through December 31, 2021.

Scope of the Investigation

The product covered by this investigation is sodium nitrite from India. For a complete description of the scope of this investigation, *see* Appendix I.

Analysis of Comments Received

The issues raised in comments that were submitted by parties in this investigation are addressed in the Issues and Decision Memorandum.[4] A list of the issues addressed in the Issues and Decision Memorandum is attached to this notice at Appendix II. 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.*

Changes Since the Preliminary Determination

Based on the analysis of comments received, we made some changes for the final determination.[5]

All-Others Rate

As discussed in the *Preliminary Determination,* Commerce based the all-others rate on the weighted average dumping margin calculated for Deepak, the only individually examined exporter/producer in this investigation, pursuant to section 735(c)(5)(A) of the Tariff Act of 1930, as amended (the Act).

Final Determination

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

Exporter/producer	Estimated weighted-average dumping margin (percent)	Cash deposit rate (adjusted for subsidy offset(s)) (percent) [6]
Deepak Nitrite Limited	44.82	42.76
All Others	44.82	42.76

Disclosure

We intend to disclose to interested parties the calculations and analysis performed in this final determination within five days of public announcement or, if there is no public announcement, within five days of the date of publication of this notice in the **Federal Register**, in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of entries of subject merchandise, as described in Appendix I of this notice, entered, or withdrawn from warehouse, for consumption on or after August 17, 2022, the date of publication of the affirmative *Preliminary Determination* in the **Federal Register**. These suspension of liquidation instructions will remain in effect until further notice.

Pursuant to section 735(c)(1)(B)(ii) of the Act and 19 CFR 351.205(d), upon publication of this notice, we will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) the cash deposit rate for Deepak is the company-specific estimated weighted-average dumping margins determined in this final determination; (2) if the exporter is not a company identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin.

U.S. International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the U.S. International Trade Commission (ITC) of

[1] *See Sodium Nitrite from India: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures,* 87 FR 50604 (August 17, 2022) (*Preliminary Determination*).

[2] *See* Deepak's Letter, ''Case Brief,'' dated November 14, 2022; *see also* Petitioner's Letter, ''Case Brief of Chemtrade Chemical US LLC,'' dated November 15, 2022.

[3] *See* Petitioner's Letter, ''Rebuttal Brief of Chemtrade Chemical US LLC,'' dated November 21, 2022.

[4] *See* Memorandum, ''Decision Memorandum for the Final Affirmative Determination in the Less-Than-Fair-Value Investigation of Sodium Nitrite from India,'' dated concurrently with this notice.

[5] *Id.* at 2–3.

[6] *See* Memorandum, ''Final Determination Analysis Memorandum for Deepak Nitrite Limited,'' dated concurrently with this notice.

the final determination of sales at LTFV. Because Commerce's final determination is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of sodium nitrite no later than 45 days after this final determination. If the ITC determines that such injury does not exist, this proceeding will be terminated, and all cash deposits posted will be refunded and suspension of liquidation will be lifted. If the ITC determines that such injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the ''Continuation of Suspension of Liquidation'' section.

Administrative Protective Order

This notice will serve as a final reminder to the parties subject to an 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 or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act, and 19 CFR 351.205(c).

Dated: December 30, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The product covered by this investigation is sodium nitrite in any form, at any purity level. In addition, the sodium nitrite covered by this investigation may or may not contain an anticaking agent. Examples of names commonly used to reference sodium nitrite are nitrous acid, sodium salt, anti-rust, diazotizing salts, erinitrit, and filmerine. Sodium nitrite's chemical composition is NaNO2, and it is generally classified under subheading 2834.10.1000 of the Harmonized Tariff Schedule of the United States (HTSUS). The American Chemical Society Chemical Abstract Service (CAS) has assigned the name ''sodium nitrite'' to sodium nitrite. The CAS registry number is 7632–00–0. For purposes of the scope of this investigation, the narrative description is dispositive, not the tariff heading, CAS registry number or CAS name, which are provided for convenience and customs purposes.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

[FR Doc. 2023–00072 Filed 1–5–23; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

National Artificial Intelligence Advisory Committee

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of open meeting.

SUMMARY: The National Institute of Standards and Technology (NIST) announces that the National Artificial Intelligence Advisory Committee (NAIAC or Committee) will hold an open meeting in-person and via web conference on February 10, 2023, from 11 a.m. to 3 p.m. Eastern time. The NAIAC members will discuss how to direct their input into actionable recommendations. Committee members will work during the following months to turn the areas of interest discussed at this meeting into recommendations that will be presented to the President and National Artificial Intelligence Initiative Office. The final agenda will be posted to the NAIAC website: *https://www.ai.gov/naiac/.*

DATES: The meeting will be held on Friday, February 10, 2023, from 11 a.m. to 3 p.m. Eastern time.

ADDRESSES: The meeting will be held in person and via live broadcast from 100 SAS Campus Dr., Cary, NC 27513. For instructions on how to attend and/or participate in the meeting, please see the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Alicia Chambers, Committee Liaison Officer, National Institute of Standards and Technology, 100 Bureau Drive, MS 1000, Gaithersburg, MD 20899, *alicia.chambers@nist.gov* or 301–975–5333, or Melissa Banner, Designated Federal Officer, National Institute of Standards and Technology, 100 Bureau Drive, MS 1000, Gaithersburg, MD 20899, *melissa.banner@nist.gov* or 301–975–5245.

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. App., notice is hereby given that the NAIAC will meet on Friday, February 10, 2023, from 11 a.m. to 3 p.m. The meeting will be open to the public and will be held in-person and via live broadcast. Interested members of the public will be able to participate in the meeting from remote locations or in-person. The primary purposes of this meeting are to receive updates from the Committee working groups and discuss how to direct their input into actionable recommendations. The final agenda will be posted to the NAIAC website: *https://www.ai.gov/naiac/.*

The NAIAC is authorized by Section 5104 of the National Artificial Intelligence Initiative Act of 2020 (Pub. L. 116–283), in accordance with the provisions of the Federal Advisory Committee Act, as amended (FACA), 5 U.S.C. App. The Committee advises the President and the National Artificial Intelligence Initiative Office on matters related to the National Artificial Intelligence Initiative. Additional information on the NAIAC is available at *https://www.ai.gov/naiac/.*

Comments: Individuals and representatives of organizations who would like to offer comments and suggestions related to items on the Committee's agenda for this meeting are invited to submit comments in advance of the meeting. Approximately ten minutes will be reserved for public comments, which will be read on a first-come, first-served basis. Please note that all submitted comments will be treated as public documents and will be made available for public inspection. All comments must be submitted via email with the subject line ''February 10, 2023, NAIAC Meeting Comments'' to *naiac@nist.gov* by 5:00 p.m. Eastern Time, Wednesday, February 8, 2023.

Admittance Instructions: The meeting will be broadcast live. The log-in instructions for the live broadcast will

be made available on *ai.gov/naiac/.* Due to requirements for social distancing in the meeting room, limited space is available on a first-come, first-served basis for anyone who wishes to attend in person. Registration for in-person attendance is required. Registration details will be posted at *https://www.ai.gov/naiac/#MEETINGS.*

Alicia Chambers,

NIST Executive Secretariat.

[FR Doc. 2023–00026 Filed 1–5–23; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC618]

Fisheries of the South Atlantic; South Atlantic Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The South Atlantic Fishery Management Council's Council will hold a meeting of its Scientific and Statistical Committee (SSC). See **SUPPLEMENTARY INFORMATION.**

DATES: The SSC meeting will be held via webinar Friday, January 20, 2023, from 8:30 a.m. until 5 p.m., EST.

ADDRESSES: The meeting will be held via webinar.

Council address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N. Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; phone: (843) 571–4366 or toll free: (866) SAFMC–10; fax: (843) 769–4520; email: *kim.iverson@safmc.net.*

SUPPLEMENTARY INFORMATION: The meeting is open to the public via webinar as it occurs. Webinar registration is required. Information regarding webinar registration will be posted to the Council's website at: *https://safmc.net/events/jan-2023-ssc-meeting/* as it becomes available. The meeting agenda, briefing book materials, and online comment form will be posted to the Council's website two weeks prior to the meeting. Written comment on SSC agenda topics is to be distributed to the Committee through the Council office, similar to all other briefing materials. For this meeting, the deadline for submission of written comment is 5 p.m. EST January 20, 2023.

Agenda items: The SSC will review the SEDAR (Southeast Data Assessment and Review) 68OA Scamp Grouper operational assessment presented by the Southeast Fishery Science Center, the Terms of Reference for the Spanish Mackerel operational assessment re-run, and address other topics as needed.

The SSC will provide guidance to staff and make recommendations for Council consideration as appropriate.

Multiple opportunities for public comment on agenda items will be provided during SSC meetings. Open comment periods will be provided at the start of the meeting and near the conclusion. Additional opportunities for comment on specific agenda items will be provided, as each item is discussed, between initial presentations and SSC discussion. Those interested in providing comment should indicate such in the manner requested by the Chair, who will then recognize individuals to provide comment.

Although non-emergency issues not contained in the meeting agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

This meeting is accessible to people with disabilities. Requests for auxiliary aids should be directed to the SAFMC office (see **ADDRESSES**) at least 5 business days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: January 3, 2023.

Ngagne Jafnar Gueye,

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

[FR Doc. 2023–00087 Filed 1–5–23; 8:45 am]

BILLING CODE 3510–22–P

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; The Ocean Enterprise: A Study of U.S. Business Activity in Ocean Measurement, Observation and Forecasting

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 23, 2022 (87 FR 58071) 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: The Ocean Enterprise: A study of U.S. business activity in ocean measurement, observation and forecasting.

OMB Control Number: 0648–0712.

Form Number(s): None.

Type of Request: Regular submission; Extension of a current information collection.

Number of Respondents: 315.

Average Hours per Response: 0.5 hour.

Total Annual Burden Hours: 157.5 hours.

Needs and Uses: This is a request for extension of an existing information collection.

NOAA's National Ocean Service's U.S. Integrated Ocean Observing System (IOOS) Office is requesting approval to continue a web-based survey of employers who provide either services or infrastructure to IOOS or organizations that add value to the IOOS data and other outputs by tailoring them for specific end uses. The purpose of the survey and overall project is to gather data to articulate the collective and derived value of the IOOS enterprise and to create a profile of businesses and organizations who are involved with providing services or utilizing the data

for other specific end uses. This survey was conducted in FY2015 and FY2020, and is intended to be repeated on a regular basis in order to track the growth of the U.S. Ocean Enterprise. The survey is a critical data collection piece of the project and is necessary in order to collect demographic, financial, and functional information for each organization with regard to their involvement with IOOS. The final deliverable of this project is an analytic report detailing the findings of the web survey and the analysis of the employer database. The results will demonstrate the size and economic impact of IOOS data to the United States marine ocean sector.

Affected Public: Business or other for-profit organizations and Not-for-profit institutions.

Frequency: Every 5 years.

Respondent's Obligation: Voluntary.

Legal Authority: Section 12304 of the Integrated Coastal and Ocean Observation System Act, part of the Omnibus Public Land Management Act of 2009 (Pub. L. 111–11), and reauthorized under the Coordinated Ocean Observations and Research Act of 2020 (Pub. L. 116–271).

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 0648–0712.

Sheleen Dumas,

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

[FR Doc. 2023–00024 Filed 1–5–23; 8:45 am]

BILLING CODE 3510–JE–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC641]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The New England Fishery Management Council's is convening its Scientific and Statistical Committee (SSC) via webinar to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This webinar will be held on Friday, January 20, 2023, beginning at 9 a.m. Webinar registration information: *https://attendee.gotowebinar.com/register/8683582624103713624.* Call in information: +1 (213) 929–4212, Access Code: 250–348–919.

ADDRESSES:

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Scientific and Statistical Committee will meet to consider setting Acceptable Biological Catches (ABCs) for the Monkfish management areas to be included in the fishery management plan specifications for fishing years 2023–25 as the average of the I-Smooth approach (multipliers applied to recent 3-year catch) and the most recent method used to determine ABC (multipliers applied to recent ABCs). The Committee also plans to consider the corrected 2022 management stock assessment to develop a possible revised ABC recommendation for Atlantic halibut for fishing years 2023 through 2025 and will consider other business as necessary.

Although non-emergency issues not contained on the agenda may come before this Council for discussion, those issues may not be the subject of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency. The public also should be aware that the meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: January 3, 2023.

Ngagne Jafnar Gueye,

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

[FR Doc. 2023–00089 Filed 1–5–23; 8:45 am]

BILLING CODE 3510–22–P

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; Northwest Region, Pacific Coast Groundfish Fishery: Trawl Rationalization Cost Recovery Program

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 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 13, 2022 (87 FR 56000) 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: Notice of Information Collection for the West Coast Region, Pacific Coast Groundfish Fishery: Trawl Rationalization Cost Recovery Program.

OMB Control Number: 0648–0663.

Form Number(s): None.

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

Number of Respondents: 65.

Average Hours per Response: Cost recovery fee forms: 1-hour, Annual report: 1 hour; Failure to Pay Report: 4 hours.

Total Annual Burden Hours: 580.

Needs and Uses: This request is for an extension of a currently approved information collection. The Magnuson-Stevens Fishery Conservation and Management Act (MSA) authorizes and requires that the Secretary of Commerce maintain a cost recovery program to cover part of the management, data collection and analysis, and enforcement costs of the limited access privilege programs, such as the Pacific Coast Groundfish Trawl Rationalization Program (Trawl Program). Cost recovery fees may not exceed three percent of the ex-vessel value. The Trawl Program cost recovery program requires fish sellers to submit fees to fish buyers who then submit those fees to NOAA's National Marine Fisheries Service (NMFS). Fish buyers must also submit information to NMFS on the volume and value of harvested groundfish when submitting the fees. Information is collected from monthly and annual reports as well as non-payment documents when necessary.

The information collected is used to track the payment of cost recovery fees, reconcile cost recovery payments with landings data from other sources, calculate average ex-vessel values, and, if necessary, help in the resolution of non-payment issues.

This program is authorized under the Pacific coast groundfish fishery regulations, trawl rationalization cost recovery program at 50 CFR 660.115.

Affected Public: Business or other for-profit organizations.

Frequency: Monthly and annually.

Respondent's Obligation: Mandatory.

Legal Authority: NMFS and the Pacific Fisheries Management Council (Council) manage the groundfish fisheries in the exclusive economic zone seaward of California, Oregon, and Washington under the Pacific Coast Groundfish Fishery Management Plan (FMP). The Council prepared the FMP under the authority of the MSA, 16 U.S.C. 1801 *et seq.* Regulations governing United States fisheries and implementing the FMP appear at 50 CFR parts 660.

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 0648–0663.

Sheleen Dumas,

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

[FR Doc. 2023–00023 Filed 1–5–23; 8:45 am]

BILLING CODE 3510–22–P

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; South Pacific Tuna Act

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 6, 2022 (87 FR 54481) 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: South Pacific Tuna Act.

OMB Control Number: 0648–0218.

Form Number(s): None.

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

Number of Respondents: 21.

Average Hours per Response: License application, 1 hour; Vessel Monitoring System (VMS) registration application, 45 minutes; catch report, 1 hour; unloading logsheet, 30 minutes; expression of interest, 2 hours; and renewal, 15 minutes.

Total Annual Burden Hours: 207.

Needs and Uses: The National Oceanic and Atmospheric Administration (NOAA) collects vessel license, vessel registration, catch, and unloading information from operators of U.S. purse seine vessels fishing under the provisions of the Treaty on Fisheries between the Governments of Certain Pacific Island States and the Government of the United States of America (Treaty). The Treaty provides access for U.S. purse seine vessels to fish in the exclusive economic zones (EEZs) of Pacific Island Parties to the Treaty (PIPs). The PIPs include Australia, Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Marshall Islands, Nauru, New Zealand, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu, and Vanuatu. This collection of information is required to meet U.S. obligations under the Treaty.

The South Pacific Tuna Act of 1988 (16 U.S.C. 973–973r) and U.S. implementing regulations (50 CFR part 300, subpart D) authorize the collection of information from U.S. purse seine vessels fishing in the EEZs of PIPs under the Treaty. Vessel operators must submit annual vessel license and registration (including registration of vessel monitoring system (VMS) units) applications and periodic written reports of catch and unloading of fish from licensed vessels. They are also required to ensure the continued operation of VMS units on board licensed vessels, which is expected to require periodic maintenance of the units. The information collected is submitted to the Pacific Islands Forum Fisheries Agency (FFA) through the U.S. government, NOAA's National Marine Fisheries Service (NMFS). The license and registration application information is used by the FFA to determine the operational capability and financial responsibility of a vessel operator interested in fishing under the Treaty. Information obtained from vessel catch and unloading reports is used by the FFA to assess fishing effort and fishery resources in the region and to track the amount of fish caught within each PIP's EEZ. Maintenance of VMS units is needed to ensure the continuous operation of the VMS units, which, as part of the VMS administered by the FFA, are used as an enforcement tool. If the information is not collected, the U.S. government will not meet its obligations under the Treaty, and the lack of fishing information will result in poor management of the fishery resources.

There are no changes to the collection.

Affected Public: Business or other for-profit organizations.

Frequency: On occasion.

Respondent's Obligation: Mandatory.

Legal Authority: 16 U.S.C. 973–973r.

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 0648–0218.

Sheleen Dumas,

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

[FR Doc. 2023–00027 Filed 1–5–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC645]

North Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of hybrid meeting.

SUMMARY: The North Pacific Fishery Management Council (NPFMC) Trawl Electronic Monitoring (EM) Committee will meet January 20, 2023.

DATES: The meeting will be held on Friday, January 20, 2023, from 9 a.m. to 4 p.m., Alaska Time.

ADDRESSES: The meeting will be a hybrid meeting. Attend in-person at the North Pacific Research Board office, 1007 West Third Ave., Suite 100, Anchorage, AK 99501 or join online through the link at *https://meetings.npfmc.org/Meeting/Details/2970.*

Council address: North Pacific Fishery Management Council, 1007 W 3rd Ave., Anchorage, AK 99501–2252; telephone: (907) 271–2809. Instructions for attending the meeting are given under **SUPPLEMENTARY INFORMATION**, below.

FOR FURTHER INFORMATION CONTACT: Anna Henry, Council staff; phone; (907) 271–2809 and email: *Anna.Henry@noaa.gov.* For technical support please contact administrative Council staff, email: *npfmc.admin@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Agenda

Friday, January 20, 2023

The agenda will include an update on 2022 NFWF funding decisions, an update on the trawl EM program, the status of current and potential future EM projects and the regional ET implementation plan priorities and committee discussion on the future role and appropriate makeup of the Trawl EM Committee. The Agenda is subject to change, and the latest version will be posted at *https://meetings.npfmc.org/Meeting/Details/2970* prior to the meeting, along with meeting materials.

Connection Information

You can attend the meeting online using a computer, tablet, or smartphone; or by phone only. Connection information will be posted online at: *https://meetings.npfmc.org/Meeting/Details/2970.*

Public Comment

Public comment letters will be accepted and should be submitted electronically to *https://meetings.npfmc.org/Meeting/Details/2970.*

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

Dated: January 3, 2022.

Ngagne Jafnar Gueye,

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

[FR Doc. 2023–00084 Filed 1–5–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Evaluation of American Samoa Coastal Management Program; Notice of Public Meeting; Request for Comments

AGENCY: Office for Coastal Management, National Ocean Service, National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Notice of public meeting and opportunity to comment.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA), Office for Coastal Management, will hold an in-person public meeting to solicit input on the performance evaluation of the American Samoa Coastal Management Program. NOAA also invites the public to submit written comments.

DATES: NOAA will hold an in-person public meeting on Tuesday, February 28, 2023, at 9 a.m. Samoa Standard Time. NOAA will consider all relevant written comments received by Friday, March 10, 2023.

ADDRESSES: Comments may be submitted by one of the following methods:

Email: Send written comments to Ralph Cantral, Evaluator, NOAA Office for Coastal Management, at *Ralph.Cantral@noaa.gov.*

In-Person Public Meeting: Provide oral comments during the in-person public meeting on Tuesday, February 28, 2023, at 9 a.m. Samoa Standard Time at the Governor H. Rex Lee Auditorium, Utulei, American Samoa 96799.

Written comments NOAA receives are considered part of the public record, and the entirety of the comment, including the name of the commenter, email address, attachments, and other supporting materials, will be publicly accessible. Sensitive personally identifiable information, such as account numbers and Social Security numbers should not be included with the comment. Comments that are not related to the performance evaluation of the American Samoa Coastal Management Program or that contain profanity, vulgarity, threats, or other inappropriate language will not be considered.

FOR FURTHER INFORMATION CONTACT: Ralph Cantral, Evaluator, NOAA Office for Coastal Management, by email at *Ralph.Cantral@noaa.gov* or by phone at (843) 474–1357. Copies of the previous evaluation findings and Assessment and Strategies may be viewed and downloaded at *http://coast.noaa.gov/czm/evaluations/.* A copy of the evaluation notification letter and most recent progress report may be obtained upon request by contacting Ralph Cantral.

SUPPLEMENTARY INFORMATION: Section 312 of the Coastal Zone Management Act (CZMA) requires NOAA to conduct periodic evaluations of federally approved coastal management programs. The evaluation process includes holding one or more public meetings, considering public comments, and consulting with interested Federal, State, and local agencies and members of the public. During the evaluation, NOAA will consider the extent to which the Territory of American Samoa has met the national objectives, adhered to the management program approved by the U.S. Secretary of Commerce, and adhered to the terms of financial assistance under the CZMA. When the evaluation is complete, NOAA's Office for Coastal Management will place a notice in the **Federal Register**

announcing the availability of the final evaluation findings.

Keelin Kuipers,

Deputy Director, Office for Coastal Management, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2023–00075 Filed 1–5–23; 8:45 am]

BILLING CODE 3510–JE–P

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; NWS Extreme Heat Social and Behavioral Sciences Research

AGENCY: National Oceanic & Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of Commerce, in accordance with the Paperwork Reduction Act of 1995 (PRA), invites 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. The purpose of this notice is to allow for 60 days of public comment preceding submission of the collection to OMB.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before March 7, 2023.

ADDRESSES: Interested persons are invited to submit written comments to Adrienne Thomas, NOAA PRA Officer, at *NOAA.PRA@noaa.gov.* Please reference OMB Control Number 0648–XXXX in the subject line of your comments. Do not submit Confidential Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or specific questions related to collection activities should be directed to Kimberly McMahon, Public Weather Services Program Manager, DOC/NOAA/NWS/AFS, 1325 East-West Highway, Silver Spring, MD 20910, 301–427–9692, *kimberly.mcmahon@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This is a request for a new collection of information.

The data collection is sponsored by DOC/NOAA/National Weather Service (NWS)/Analyze, Forecast, and Support Office (AFSO). Heat continues to be the leading weather-related killer with the Centers for Disease Control and Prevention (CDC) estimating more than 700 deaths and 9,000 hospitalizations a year resulting from heat exposure. In particular, historically underserved communities, as defined and highlighted in Executive Order 13985, Advancing Racial Equity and Support for Underserved Communities Through the Federal Government, typically experience higher rates of poverty, homelessness, disabilities, and language barriers, which increase their vulnerability to heat impacts. The NWS has articulated a priority to enhance services for these historically underinvested and underserved communities that are at greater risk for experiencing negative health impacts related to extreme heat.

As heat-related impacts continue to increase, the NWS must rise to the challenge and provide the most equitable and informed heat products and services to mitigate loss of life and property. Modeling and forecasting capabilities have continued to expand, but even the most accurate and up-to-date forecasts must be paired with Social, Behavioral, and Economic Sciences (SBES) to ensure that NWS can meet its mission of protecting life and property and enhancing the national economy. In addition, this study supports the Weather Research and Forecasting Innovation Act of 2017, which calls on NOAA to ''improve the understanding of how the public receives, interprets, and responds to warnings and forecasts of high impact weather events that endanger life and property.''

While NWS continues to enhance its heat-related products and services, there is still significant room for improvement, particularly in bridging the gap between physical science information and how it is received and acted upon by our public and partners. As such, this study will focus on expanding our knowledge of public perception and understanding of heat to inform and improve NWS' national and local level heat communication and messaging. This will include an initial literature review to draw out known best practices and identify research gaps to inform a mixed methods approach including a series of remote focus groups and a large-scale public survey. The focus groups are intended to explore how pertinent public, nonprofit, corporate, and academic stakeholders message heat information and resources, particularly for underserved communities. The quantitative survey will use a representative sample of the U.S. population and focus on more broadly conceptualizing public perception and understanding of heat.

II. Method of Collection

Information will be collected via mixed methods approach of qualitative focus groups and a quantitative survey.

The focus groups will consist of six remote groups lasting 90-minutes. Each group will consist of six to eight participants for a total of up to 48 participants. Participants will include a mix of public, nonprofit, corporate, and academic stakeholders who have a role in messaging and assisting with behavior change to improve extreme heat outcomes. Specific focus group questions will provide information about how NWS can effectively reach underserved groups with its extreme heat messaging including how to reach underserved groups, what messaging spurs action, and what communication channels are most effective.

The 15-minute web survey will consist of 1,000 nationally distributed participants from the general public. Respondents include adults who reside in the United States, recruited through a non-probability panel. Specific survey questions will determine how members of the US public receive, comprehend, and respond to extreme heat messages.

III. Data

OMB Control Number: 0648–XXXX.

Form Number(s): None.

Type of Review: Regular (New information collection).

Affected Public: Individuals or households; Business or other for-profit organizations; Not-for-profit institutions; Federal, State, local, or Tribal government; academic institutions.

Estimated Number of Respondents: 1,048.

Estimated Time per Response:

- *Focus Group:* 90 minutes.
- *Survey:* 15 minutes.

Estimated Total Annual Burden Hours: 322.

Estimated Total Annual Cost to Public: None.

Respondent's Obligation: Voluntary.

Legal Authority: 15 U.S.C. chapter 111, Weather Research and Forecasting Information.

IV. Request for Comments

We are soliciting public comments to permit the Department/Bureau to: (a)

Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. 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 may 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.

Sheleen Dumas,

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

[FR Doc. 2023–00051 Filed 1–5–23; 8:45 am]

BILLING CODE 3510–KE–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC651]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Ecosystem-Based Fishery Management Committee (EBFM) and Advisory Panel Chairs to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Friday, January 20, 2023, at 9:30 a.m. at the Radisson Airport Hotel, 2081 Post Road, Warwick, RI 02886; phone: (401) 739–3000.

ADDRESSES:

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda: The Ecosystem-Based Fishery Management (EBFM) Committee and Advisory Panel Chairs will meet to discuss when and how to conduct deep-dive public information workshops. They will also continue development of the Prototype Management Strategy Evaluation and provide guidance to the project team.

Although non-emergency issues not contained on the agenda may come before this Council for discussion, those issues may not be the subject of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency. The public also should be aware that the meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: January 3, 2023.

Ngagne Jafnar Gueye,

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

[FR Doc. 2023–00088 Filed 1–5–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Submission for OMB Review; Comment Request; West Coast Region Groundfish Electronic Fish Ticket Program

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 August 9, 2022 (87 FR 48469), during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: National Oceanic and Atmospheric Administration (NOAA), Commerce.

Title: West Coast Region Groundfish Electronic Fish Ticket Program.

OMB Control Number: 0648–0738.

Form Number(s): None.

Type of Request: Regular submission (extension of a currently approved collection).

Number of Respondents: 145.

Average Time per Response: Electronic fish ticket submission: 2 minutes; IFQ First Receiver Submission: 10 minutes; Pacific Whiting Disposition Recordkeeping, 1 minute.

Burden Hours: 2,102 hours.

Needs and Uses: As part of its fishery management responsibilities, the National Oceanic and Atmospheric Administration (NOAA), National Marine Fisheries Service (NMFS) collects information to determine the amount and type of groundfish caught by fishing vessels. Electronic fish tickets are submissions of landings data from the first receiver to the Pacific States Marine Fisheries Commission (PSMFC) and NMFS. This collection supports requirements for participants of the Pacific Coast shorebased commercial groundfish fisheries, including the shorebased Individual Fishing Quota (IFQ) program, the limited entry fixed gear fishery, and the open access fixed gear fishery, to account for all landed catch and to transmit electronic catch data used to manage the catch allocations and limits. NMFS may use this data for general purpose statistics and program evaluation.

Affected Public: Primary respondents are businesses or other for-profit organizations (*e.g.,* groundfish fishermen, fishing companies, partnerships, and shorebased first receivers), individuals or households, and State fisheries agencies.

Frequency: Reporting occurs concurrently with fishing landings, which could range from occasionally to

daily depending on the frequency of fishing throughout the season.

Respondent's Obligation: Mandatory.

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view 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 0648–0738.

Sheleen Dumas,

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

[FR Doc. 2023–00052 Filed 1–5–23; 8:45 am]

BILLING CODE 3510–22–P

COMMISSION OF FINE ARTS

Notice of Meeting

The next meeting of the U.S. Commission of Fine Arts is scheduled for January 19, 2023, at 9 a.m. and will be held via online videoconference. Items of discussion may include buildings, infrastructure, parks, memorials, and public art.

Draft agendas, the link to register for the online public meeting, and additional information regarding the Commission are available on our website: *www.cfa.gov.* Inquiries regarding the agenda, as well as any public testimony, should be addressed to Thomas Luebke, Secretary, U.S. Commission of Fine Arts, at the above address; by emailing *cfastaff@cfa.gov;* or by calling 202–504–2200. Individuals requiring sign language interpretation for the hearing impaired should contact the Secretary at least 10 days before the meeting date.

Dated: January 3, 2023, in Washington, DC.

Susan M. Raposa,

Technical Information Specialist.

[FR Doc. 2023–00022 Filed 1–5–23; 8:45 am]

BILLING CODE 6330–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP23–32–000]

Columbia Gas Transmission, LLC; Notice of Request Under Blanket Authorization and Establishing Intervention and Protest Deadline

Take notice that on December 21, 2022, Columbia Gas Transmission, LLC (Columbia), 700 Louisiana Street, Suite 1300, Houston, Texas 77002, filed a prior notice request pursuant to Sections 157.205, 157.208 and 157.216 of the Commission's regulations under the Natural Gas Act and the blanket certificate issued by the Commission in Docket No. CP83–76–000,[1] requesting authorization to replace multiple segments of pipeline located in Shenandoah County, Virginia, to comply with the U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration (PHMSA) requirement for class locations changes on Columbia's Lines VB, VB-Loop, and VB–5. (Lines VB, VB-Loop, and VB–5 Cedar Springs Class Replacement Project).

Columbia asserts that it has determined that the replacement of the lines and maintaining its current maximum operating pressure is the most appropriate option to maintain PHMSA compliance. Columbia states that it will maintain full service to existing customers during the replacement activities, therefore no impacts to Columbia's customers are anticipated. Replacing these lines sections will also ensure that Columbia provide reliable, safe, and efficient service. The estimated cost of the Project is approximately $33,400,000, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TTY, (202) 502–8659.

Any questions concerning this application should be directed to David A. Alonzo, Manager, Project Authorizations, Columbia Gas Transmission, LLC, 700 Louisiana Street, Suite 1300, Houston, Texas 77002, by telephone (832) 320–5477, or by email *david_alonzo@tcenergy.com.*

Public Participation

There are three ways to become involved in the Commission's review of this project: you can file a protest to the project, you can file a motion to intervene in the proceeding, and you can file comments on the project. There is no fee or cost for filing protests, motions to intervene, or comments. The deadline for filing protests, motions to intervene, and comments is 5:00 p.m. Eastern Time on February 28, 2023. How to file protests, motions to intervene, and comments is explained below.

Protests

Pursuant to section 157.205 of the Commission's regulations under the NGA,[2] any person [3] or the Commission's staff may file a protest to the request. If no protest is filed within the time allowed or if a protest is filed and then withdrawn within 30 days after the allowed time for filing a protest, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request for authorization will be considered by the Commission.

Protests must comply with the requirements specified in section 157.205(e) of the Commission's regulations,[4] and must be submitted by the protest deadline, which is February 28, 2023. A protest may also serve as a motion to intervene so long as the protestor states it also seeks to be an intervenor.

Interventions

Any person has the option to file a motion to intervene in this proceeding.

[1] *Columbia Gas Transmission Corporation* (predecessor to Columbia Gas Transmission, LLC), 22 FERC ¶ 62,029 (1983).

[2] 18 CFR 157.205.

[3] Persons include individuals, organizations, businesses, municipalities, and other entities. 18 CFR 385.102(d).

[4] 18 CFR 157.205(e).

Only intervenors have the right to request rehearing of Commission orders issued in this proceeding and to subsequently challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and Procedure [5] and the regulations under the NGA [6] by the intervention deadline for the project, which is February 28, 2023. As described further in Rule 214, your motion to intervene must state, to the extent known, your position regarding the proceeding, as well as your interest in the proceeding. For an individual, this could include your status as a landowner, ratepayer, resident of an impacted community, or recreationist. You do not need to have property directly impacted by the project in order to intervene. For more information about motions to intervene, refer to the FERC website at *https://www.ferc.gov/resources/guides/how-to/intervene.asp*.

All timely, unopposed motions to intervene are automatically granted by operation of Rule 214(c)(1). Motions to intervene that are filed after the intervention deadline are untimely and may be denied. Any late-filed motion to intervene must show good cause for being late and must explain why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules and Regulations. A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies (paper or electronic) of all documents filed by the applicant and by all other parties.

Comments

Any person wishing to comment on the project may do so. The Commission considers all comments received about the project in determining the appropriate action to be taken. To ensure that your comments are timely and properly recorded, please submit your comments on or before February 28, 2023. The filing of a comment alone will not serve to make the filer a party to the proceeding. To become a party, you must intervene in the proceeding.

How To File Protests, Interventions, and Comments

There are two ways to submit protests, motions to intervene, and comments. In both instances, please reference the Project docket number CP23–32–000 in your submission.

(1) You may file your protest, motion to intervene, and comments by using the Commission's eFiling feature, which is located on the Commission's website (*www.ferc.gov*) under the link to Documents and Filings. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making; first select General'' and then select ''Protest'', ''Intervention'', or ''Comment on a Filing.'' The Commission's eFiling staff are available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov*.

(2) You can file a paper copy of your submission. Your submission must reference the Project docket number CP23–32–000.

To mail via USPS, use the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

To mail via any other courier, use the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Protests and motions to intervene must be served on the applicant either by mail or email (with a link to the document) at: David A. Alonzo, Manager, Project Authorizations, Columbia Gas Transmission, LLC, 700 Louisiana Street, Suite 1300, Houston, Texas 77002, by telephone (832) 320–5477, or by email *david_alonzo@tcenergy.com*.

Any subsequent submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be downloaded from the service list at the eService link on FERC Online.

Tracking the Proceeding

Throughout the proceeding, additional information about the project will be available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *www.ferc.gov* using the ''eLibrary'' link as described above. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. For more information and to register, go to *www.ferc.gov/docs-filing/esubscription.asp*.

Dated: December 30, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–00061 Filed 1–5–23; 8:45 am]

BILLING CODE 6717–01–P

[5] 18 CFR 385.214.

[6] 18 CFR 157.10.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: CP23–30–000.
Applicants: Columbia Gas of Pennsylvania, Inc.
Description: Columbia Gas of Pennsylvania, Inc. submits Application for Limited Jurisdiction Certificate of Public Convenience and Necessity.
Filed Date: 12/21/22.
Accession Number: 20221221–5150.
Comment Date: 5 p.m. ET 1/10/23.

Docket Numbers: PR23–20–000.
Applicants: Columbia Gas of Ohio, Inc.
Description: § 284.123 Rate Filing: COH Rates effective 11–29–2022 to be effective 11/29/2022.
Filed Date: 12/29/22.
Accession Number: 20221229–5131.
Comment Date: 5 p.m. ET 1/19/23.

Docket Numbers: RP23–315–000.
Applicants: Transcontinental Gas Pipe Line Company, LLC.
Description: Compliance filing: Cash Out Surcharge True Up Filing to be effective N/A.
Filed Date: 12/29/22.
Accession Number: 20221229–5004.
Comment Date: 5 p.m. ET 1/10/23.

Docket Numbers: RP23–316–000.
Applicants: ETC Tiger Pipeline, LLC.
Description: § 4(d) Rate Filing: Amended NRA—BP Energy Co to be effective 1/1/2023.
Filed Date: 12/29/22.
Accession Number: 20221229–5083.
Comment Date: 5 p.m. ET 1/10/23.

Docket Numbers: RP23–317–000.
Applicants: Nautilus Pipeline Company, L.L.C.
Description: § 4(d) Rate Filing: Negotiated Rates—EnVen Energy eff 12–28–22 to be effective 12/28/2022.
Filed Date: 12/29/22.
Accession Number: 20221229–5288.

Comment Date: 5 p.m. ET 1/10/23.

Docket Numbers: RP23–318–000.

Applicants: Columbia Gas Transmission, LLC.

Description: Compliance filing: Penalty Revenue Credit Report 2022 to be effective N/A.

Filed Date: 12/30/22.

Accession Number: 20221230–5005.

Comment Date: 5 p.m. ET 1/11/23.

Docket Numbers: RP23–319–000.

Applicants: MountainWest Overthrust Pipeline, LLC.

Description: § 4(d) Rate Filing: WIC TSA 4229 Amendment to be effective 2/1/2023.

Filed Date: 12/30/22.

Accession Number: 20221230–5010.

Comment Date: 5 p.m. ET 1/11/23.

Docket Numbers: RP23–320–000.

Applicants: El Paso Natural Gas Company, L.L.C.

Description: § 4(d) Rate Filing: Negotiated Rate Agmt Update (Conoco—Jan 1 23) to be effective 1/1/2023.

Filed Date: 12/30/22.

Accession Number: 20221230–5011.

Comment Date: 5 p.m. ET 1/11/23.

Docket Numbers: RP23–321–000.

Applicants: Gulf South Pipeline Company, LLC.

Description: § 4(d) Rate Filing: Cap Rel Neg Rate Agmt (Panda 624 to Tenaska 55832) to be effective 1/1/2023.

Filed Date: 12/30/22.

Accession Number: 20221230–5038.

Comment Date: 5 p.m. ET 1/11/23.

Docket Numbers: RP23–322–000.

Applicants: Gulf South Pipeline Company, LLC.*Description:* § 4(d) Rate Filing: Cap Rel Neg Rate Agmt (Methanex 42805 to Tenaska 55839) to be effective 1/1/2023.

Filed Date: 12/30/22.

Accession Number: 20221230–5039.

Comment Date: 5 p.m. ET 1/11/23.

Docket Numbers: RP23–323–000.

Applicants: Texas Gas Transmission, LLC.

Description: § 4(d) Rate Filing: Cap Rel Neg Rate Agmt (JayBee 34446 to Macquarie 54072) to be effective 1/1/2023.

Filed Date: 12/30/22.

Accession Number: 20221230–5046.

Comment Date: 5 p.m. ET 1/11/23.

Docket Numbers: RP23–324–000.

Applicants: El Paso Natural Gas Company, L.L.C.

Description: § 4(d) Rate Filing: Negotiated Rate Agmt Update (Conoco—Jan 3 23) to be effective 1/3/2023.

Filed Date: 12/30/22.

Accession Number: 20221230–5070.

Comment Date: 5 p.m. ET 1/11/23.

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: December 30, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–00018 Filed 1–5–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG23–50–000.

Applicants: Carson Hybrid Energy Center LLC.

Description: Carson Hybrid Energy Center LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 12/30/22.

Accession Number: 20221230–5143.

Comment Date: 5 p.m. ET 1/20/23.

Docket Numbers: EG23–51–000.

Applicants: Enery Holdings LLC.

Description: Enery Holdings LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 12/30/22.

Accession Number: 20221230–5144.

Comment Date: 5 p.m. ET 1/20/23.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER11–1933–008.

Applicants: Green Mountain Power Corporation.

Description: Triennial Market Power Analysis for Northeast Region of Green Mountain Power Corporation.

Filed Date: 12/30/22.

Accession Number: 20221230–5127.

Comment Date: 5 p.m. ET 2/28/23.

Docket Numbers: ER14–225–008.

Applicants: New Brunswick Energy Marketing Corporation.

Description: Notice of Change in Status of New Brunswick Energy Marketing Corporation.

Filed Date: 12/30/22.

Accession Number: 20221230–5130.

Comment Date: 5 p.m. ET 1/20/23.

Docket Numbers: ER23–750–000.

Applicants: Consolidated Edison Company of New York, Inc.

Description: § 205(d) Rate Filing: Managed Charging Program Costs Adjustment 12–29–2022 to be effective 1/1/2023.

Filed Date: 12/30/22.

Accession Number: 20221230–5000.

Comment Date: 5 p.m. ET 1/20/23.

Docket Numbers: ER23–751–000.

Applicants: AEP Indiana Michigan Transmission Company, Inc.

Description: Baseline eTariff Filing: AEP I&M Transmission Company, Inc. Service Agreements Tariff—Baseline to be effective 12/30/2022.

Filed Date: 12/30/22.

Accession Number: 20221230–5001.

Comment Date: 5 p.m. ET 1/20/23.

Docket Numbers: ER23–752–000.

Applicants: AEP Indiana Michigan Transmission Company, Inc.

Description: § 205(d) Rate Filing: AIMTC-Bellflower Solar 1 (Shankatank Station) Maintenance Agreement to be effective 12/30/2022.

Filed Date: 12/30/22.

Accession Number: 20221230–5002.

Comment Date: 5 p.m. ET 1/20/23.

Docket Numbers: ER23–753–000.

Applicants: PacifiCorp.

Description: § 205(d) Rate Filing: UAMPS Const Agmt Hyrum City BTM Resource Modeling to be effective 3/1/2023.

Filed Date: 12/30/22.

Accession Number: 20221230–5063.

Comment Date: 5 p.m. ET 1/20/23.

Docket Numbers: ER23–754–000.

Applicants: PacifiCorp.

Description: § 205(d) Rate Filing: Revisions to Generator Interconnection Procedures Regarding Electric Storage Res to be effective 3/1/2023.

Filed Date: 12/30/22.

Accession Number: 20221230–5073.

Comment Date: 5 p.m. ET 1/20/23.

Docket Numbers: ER23–755–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original NSA, Service Agreement No. 6723; Queue No. AC2–154/AD2–060 to be effective 5/9/2022.

Filed Date: 12/30/22.

Accession Number: 20221230–5082.

Comment Date: 5 p.m. ET 1/20/23.

Docket Numbers: ER23–756–000.

Applicants: New England Power Pool Participants Committee.

Description: § 205(d) Rate Filing: Jan 2023 Membership Filing to be effective 12/1/2022.

Filed Date: 12/30/22.

Accession Number: 20221230–5114.

Comment Date: 5 p.m. ET 1/20/23.

Docket Numbers: ER23–757–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Amendment to Service Agreement No. 5422; Queue No. AC1–158 to be effective 6/14/2019.

Filed Date: 12/30/22.

Accession Number: 20221230–5126.

Comment Date: 5 p.m. ET 1/20/23.

Docket Numbers: ER23–758–000.

Applicants: Idaho Power Company.

Description: § 205(d) Rate Filing: SA 419 and SA 420—Revised PTP Transmission Service Agreements w/ Powerex to be effective 4/1/2023.

Filed Date: 12/30/22.

Accession Number: 20221230–5188.

Comment Date: 5 p.m. ET 1/20/23.

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: December 30, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–00020 Filed 1–5–23; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP23–33–000]

Columbia Gas Transmission, LLC; Notice of Request Under Blanket Authorization and Establishing Intervention and Protest Deadline

Take notice that on December 21, 2022, Columbia Gas Transmission, LLC (Columbia), 700 Louisiana Street, Suite 1300, Houston, Texas 77002–2700, filed in the above referenced docket a prior notice request pursuant to sections 157.205 and 157.213(b) of the Federal Energy Regulatory Commission's regulations under the Natural Gas Act (NGA) and Columbia's blanket certificate issued in Docket No. CP83–76–000. Columbia is requesting authorization to construct and operate one new injection/withdrawal storage well, related storage field pipeline and appurtenances, and relocate an existing storage field pipeline, located in the Ripley Storage Field in Jackson County, West Virginia. The estimated cost for the project is approximately $11.5 million, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TTY, (202) 502–8659.

Any questions concerning this application should be directed to David A. Alonzo, Manager, Project Authorizations, Columbia Gas Transmission, LLC, 700 Louisiana Street, Suite 1300, Houston, Texas 77002–2700, phone: 832–320–5477, email: *david_alonzo@tcenergy.com.*

Public Participation

There are three ways to become involved in the Commission's review of this project: you can file a protest to the project, you can file a motion to intervene in the proceeding, and you can file comments on the project. There is no fee or cost for filing protests, motions to intervene, or comments. The deadline for filing protests, motions to intervene, and comments is 5:00 p.m. Eastern Time on February 28, 2023. How to file protests, motions to intervene, and comments is explained below.

Protests

Pursuant to section 157.205 of the Commission's regulations under the NGA,[1] any person [2] or the Commission's staff may file a protest to the request. If no protest is filed within the time allowed or if a protest is filed and then withdrawn within 30 days after the allowed time for filing a protest, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request for authorization will be considered by the Commission.

Protests must comply with the requirements specified in section 157.205(e) of the Commission's regulations,[3] and must be submitted by the protest deadline, which is February 28, 2023. A protest may also serve as a motion to intervene so long as the protestor states it also seeks to be an intervenor.

Interventions

Any person has the option to file a motion to intervene in this proceeding. Only intervenors have the right to request rehearing of Commission orders issued in this proceeding and to subsequently challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and Procedure [4] and the regulations under the NGA [5] by the intervention deadline for the project, which is February 28, 2023. As described further in Rule 214, your motion to intervene must state, to

[1] 18 CFR 157.205.

[2] Persons include individuals, organizations, businesses, municipalities, and other entities. 18 CFR 385.102(d).

[3] 18 CFR 157.205(e).

[4] 18 CFR 385.214.

[5] 18 CFR 157.10.

the extent known, your position regarding the proceeding, as well as your interest in the proceeding. For an individual, this could include your status as a landowner, ratepayer, resident of an impacted community, or recreationist. You do not need to have property directly impacted by the project in order to intervene. For more information about motions to intervene, refer to the FERC website at *https://www.ferc.gov/resources/guides/how-to/intervene.asp*.

All timely, unopposed motions to intervene are automatically granted by operation of Rule 214(c)(1). Motions to intervene that are filed after the intervention deadline are untimely and may be denied. Any late-filed motion to intervene must show good cause for being late and must explain why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules and Regulations. A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies (paper or electronic) of all documents filed by the applicant and by all other parties.

Comments

Any person wishing to comment on the project may do so. The Commission considers all comments received about the project in determining the appropriate action to be taken. To ensure that your comments are timely and properly recorded, please submit your comments on or before February 28, 2023. The filing of a comment alone will not serve to make the filer a party to the proceeding. To become a party, you must intervene in the proceeding.

How To File Protests, Interventions, and Comments

There are two ways to submit protests, motions to intervene, and comments. In both instances, please reference the Project docket number CP23–33–000 in your submission.

(1) You may file your protest, motion to intervene, and comments by using the Commission's eFiling feature, which is located on the Commission's website (*www.ferc.gov*) under the link to Documents and Filings. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making; first select General'' and then select ''Protest'', ''Intervention'', or ''Comment on a Filing''; or [6]

(2) You can file a paper copy of your submission by mailing it to the address below. Your submission must reference the Project docket number CP23–33–000.

To file via USPS: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426

To file via any other method: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852

The Commission encourages electronic filing of submissions (option 1 above) and has eFiling staff available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov*.

Protests and motions to intervene must be served on the applicant either by mail or email (with a link to the document) at: Columbia Gas Transmission, LLC, 700 Louisiana Street, Suite 1300, Houston, Texas 77002–2700 or *david_alonzo@tcenergy.com*. Any subsequent submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be downloaded from the service list at the eService link on FERC Online.

Tracking the Proceeding

Throughout the proceeding, additional information about the project will be available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *www.ferc.gov* using the ''eLibrary'' link as described above. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. For more information and to register, go to *www.ferc.gov/docs-filing/esubscription.asp*.

Dated: December 30, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–00060 Filed 1–5–23; 8:45 am]

BILLING CODE 6717–01–P

[6] Additionally, you may file your comments electronically by using the eComment feature, which is located on the Commission's website at *www.ferc.gov* under the link to Documents and Filings. Using eComment is an easy method for interested persons to submit brief, text-only comments on a project.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP23–34–000]

Northern Natural Gas Company; Notice of Request Under Blanket Authorization and Establishing Intervention and Protest Deadline

Take notice that on December 22, 2022, Northern Natural Gas Company (Northern) 1111 South 103rd Street, Omaha, NE 68124, filed a prior notice request pursuant to Sections 157.205, 157.208, 157.210, and 157.211 of the Commission's regulations under the Natural Gas Act and the blanket certificate issued by the Commission in Docket No. CP82–401–000,[1] requesting authorization to install and operate (1) an approximately 4.07-mile extension of its 16-inch-diameter C-line in Martin County, Minnesota; (2) an approximately 0.86-mile 8-inch-diameter Whittemore branch line loop in Dickenson County, Iowa; (3) a new Platinum Crush town border station (TBS) in Buena Vista County, Iowa; (4) modifications to the Fremont TBS in Dodge County, Nebraska; and (5) associated appurtenant facilities. The proposed project is referred to as the West Leg 2023 Expansion Project.

Northern asserts that it held an open season to solicit interest for firm transportation service and resulted in customer requests for 18,250 dekatherms per day (Dth/d) of incremental firm service. Northern affirms that it has executed service agreements for a total of 18,250 Dth/d with five customers: City of Fremont, Platinum Crush, Dakota Ethanol, Northfolk Crush, and Milk Specialties. The estimated cost of the Project is approximately $22,669,450, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*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

[1] *Northern Natural Gas Company, Division of InterNorth, Inc.* (predecessor to Northern Natural Gas Company), 20 FERC ¶ 62,410 (1982).

proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TTY, (202) 502–8659.

Any questions concerning this application should be directed to Kirk Lavengood, Vice President General Counsel and Regulatory Affairs, Northern Natural Gas Company, P.O. Box 3330, Omaha, NE 68103–0330, by telephone (402) 398–7376, or by email *kirk.lavengood@nngco.com*.

Public Participation

There are three ways to become involved in the Commission's review of this project: you can file a protest to the project, you can file a motion to intervene in the proceeding, and you can file comments on the project. There is no fee or cost for filing protests, motions to intervene, or comments. The deadline for filing protests, motions to intervene, and comments is 5:00 p.m. Eastern Time on February 28, 2023. How to file protests, motions to intervene, and comments is explained below.

Protests

Pursuant to section 157.205 of the Commission's regulations under the NGA,[2] any person [3] or the Commission's staff may file a protest to the request. If no protest is filed within the time allowed or if a protest is filed and then withdrawn within 30 days after the allowed time for filing a protest, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request for authorization will be considered by the Commission.

Protests must comply with the requirements specified in section 157.205(e) of the Commission's regulations,[4] and must be submitted by the protest deadline, which is February 28, 2023. A protest may also serve as a motion to intervene so long as the protestor states it also seeks to be an intervenor.

Interventions

Any person has the option to file a motion to intervene in this proceeding. Only intervenors have the right to request rehearing of Commission orders issued in this proceeding and to subsequently challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and Procedure [5] and the regulations under the NGA [6] by the intervention deadline for the project, which is February 28, 2023. As described further in Rule 214, your motion to intervene must state, to the extent known, your position regarding the proceeding, as well as your interest in the proceeding. For an individual, this could include your status as a landowner, ratepayer, resident of an impacted community, or recreationist. You do not need to have property directly impacted by the project in order to intervene. For more information about motions to intervene, refer to the FERC website at *https://www.ferc.gov/resources/guides/how-to/intervene.asp*.

All timely, unopposed motions to intervene are automatically granted by operation of Rule 214(c)(1). Motions to intervene that are filed after the intervention deadline are untimely and may be denied. Any late-filed motion to intervene must show good cause for being late and must explain why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules and Regulations. A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies (paper or electronic) of all documents filed by the applicant and by all other parties.

Comments

Any person wishing to comment on the project may do so. The Commission considers all comments received about the project in determining the appropriate action to be taken. To ensure that your comments are timely and properly recorded, please submit your comments on or before February 28, 2023. The filing of a comment alone will not serve to make the filer a party to the proceeding. To become a party, you must intervene in the proceeding.

How To File Protests, Interventions, and Comments

There are two ways to submit protests, motions to intervene, and comments. In both instances, please reference the Project docket number CP23–34–000 in your submission.

(1) You may file your protest, motion to intervene, and comments by using the Commission's eFiling feature, which is located on the Commission's website (*www.ferc.gov*) under the link to Documents and Filings. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making; first select General'' and then select ''Protest'', ''Intervention'', or ''Comment on a Filing.'' The Commission's eFiling staff are available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov*.

(2) You can file a paper copy of your submission. Your submission must reference the Project docket number CP23–34–000.

To mail via USPS, use the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426

To mail via any other courier, use the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852

Protests and motions to intervene must be served on the applicant either by mail or email (with a link to the document) at: Kirk Lavengood, Vice President General Counsel and Regulatory Affairs, Northern Natural Gas Company, P.O. Box 3330, Omaha, NE 68103–0330, by telephone (402) 398–7376, or by email *kirk.lavengood@nngco.com*.

Any subsequent submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be downloaded from the service list at the eService link on FERC Online.

Tracking the Proceeding

Throughout the proceeding, additional information about the project will be available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *www.ferc.gov* using the ''eLibrary'' link as described above. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with

[2] 18 CFR 157.205.

[3] Persons include individuals, organizations, businesses, municipalities, and other entities. 18 CFR 385.102(d).

[4] 18 CFR 157.205(e).

[5] 18 CFR 385.214.

[6] 18 CFR 157.10.

notification of these filings, document summaries, and direct links to the documents. For more information and to register, go to *www.ferc.gov/docs-filing/esubscription.asp*.

Dated: December 30, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–00059 Filed 1–5–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP23–31–000]

Columbia Gas Transmission, LLC; Notice of Request Under Blanket Authorization and Establishing Intervention and Protest Deadline

Take notice that on December 21, 2022, Columbia Gas Transmission, LLC (Columbia), 700 Louisiana Street, Suite 1300, Houston, Texas 77002–2700, filed in the above referenced docket, a prior notice request pursuant to sections 157.205 and 157.216(b) of the Federal Energy Regulatory Commission's (Commission) regulations under the Natural Gas Act (NGA), and Columbia's blanket certificate issued in Docket No. CP83–76–000,[1] for authorization to abandon three injection/withdrawal wells, connecting pipelines, and appurtenant facilities located at the Benton, Crawford, and McArthur Storage Fields in Hocking and Vinton Counties, Ohio.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TTY, (202) 502–8659.

Any questions concerning this application should be directed to David A. Alonzo, Manager, Project Authorizations, Columbia Gas Transmission, LLC, 700 Louisiana Street, Suite 1300, Houston, Texas 77002–2700, at (832) 320–5477 or *david_alonzo@tcenergy.com*.

Pursuant to section 157.9 of the Commission's Rules of Practice and Procedure,[2] within 90 days of this Notice the Commission staff will either: complete its environmental review and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or environmental assessment (EA) for this proposal. The filing of an EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify Federal and State agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all Federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Public Participation

There are three ways to become involved in the Commission's review of this project: you can file a protest to the project, you can file a motion to intervene in the proceeding, and you can file comments on the project. There is no fee or cost for filing protests, motions to intervene, or comments. The deadline for filing protests, motions to intervene, and comments is 5 p.m. Eastern Time on February 28, 2023. How to file protests, motions to intervene, and comments is explained below.

Protests

Pursuant to section 157.205 of the Commission's regulations under the NGA,[3] any person [4] or the Commission's staff may file a protest to the request. If no protest is filed within the time allowed or if a protest is filed and then withdrawn within 30 days after the allowed time for filing a protest, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request for authorization will be considered by the Commission.

Protests must comply with the requirements specified in section 157.205(e) of the Commission's regulations,[5] and must be submitted by the protest deadline, which is February 28, 2023. A protest may also serve as a motion to intervene so long as the protestor states it also seeks to be an intervenor.

Interventions

Any person has the option to file a motion to intervene in this proceeding. Only intervenors have the right to request rehearing of Commission orders issued in this proceeding and to subsequently challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and Procedure [6] and the regulations under the NGA [7] by the intervention deadline for the project, which is February 28, 2023. As described further in Rule 214, your motion to intervene must state, to the extent known, your position regarding the proceeding, as well as your interest in the proceeding. For an individual, this could include your status as a landowner, ratepayer, resident of an impacted community, or recreationist. You do not need to have property directly impacted by the project in order to intervene. For more information about motions to intervene, refer to the FERC website at *https://www.ferc.gov/resources/guides/how-to/intervene.asp*.

All timely, unopposed motions to intervene are automatically granted by operation of Rule 214(c)(1). Motions to intervene that are filed after the intervention deadline are untimely and may be denied. Any late-filed motion to intervene must show good cause for being late and must explain why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules and Regulations. A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies (paper or electronic) of all documents filed by the applicant and by all other parties.

Comments

Any person wishing to comment on the project may do so. The Commission

[1] *Columbia Gas Transmission Corporation* (predecessor to Columbia Gas Transmission, LLC), 22 FERC 62,029 (1983).

[2] 18 CFR (Code of Federal Regulations) § 157.9.

[3] 18 CFR 157.205.

[4] Persons include individuals, organizations, businesses, municipalities, and other entities. 18 CFR 385.102(d).

[5] 18 CFR 157.205(e).

[6] 18 CFR 385.214.

[7] 18 CFR 157.10.

considers all comments received about the project in determining the appropriate action to be taken. To ensure that your comments are timely and properly recorded, please submit your comments on or before February 28, 2023. The filing of a comment alone will not serve to make the filer a party to the proceeding. To become a party, you must intervene in the proceeding.

How To File Protests, Interventions, and Comments

There are two ways to submit protests, motions to intervene, and comments. In both instances, please reference the Project docket number CP23–31–000 in your submission:

(1) You may file your protest, motion to intervene, and comments by using the Commission's *eFiling* feature, which is located on the Commission's website (*www.ferc.gov*) under the link to *Documents and Filings.* New eFiling users must first create an account by clicking on ''*eRegister.*'' You will be asked to select the type of filing you are making; first select General'' and then select ''Protest'', ''Intervention'', or ''Comment on a Filing''; or [8]

(2) You can file a paper copy of your submission by mailing it to the address below. Your submission must reference the Project docket number CP23–31–000.

To mail via USPS, use the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

To mail via any other courier, use the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

The Commission encourages electronic filing of submissions (option 1 above) and has eFiling staff available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov.*

Protests and motions to intervene must be served on the applicant either by mail or email (with a link to the document) at: David A. Alonzo, Manager, Project Authorizations, Columbia Gas Transmission, LLC, 700 Louisiana Street, Suite 1300, Houston, TX 77002–2700 or *david_alonzo@tcenergy.com.* Any subsequent submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be downloaded from the service list at the eService link on FERC Online.

Tracking the Proceeding

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Dated: December 30, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–00057 Filed 1–5–23; 8:45 am]

BILLING CODE 6717–01–P

[8] Additionally, you may file your comments electronically by using the eComment feature, which is located on the Commission's website at *www.ferc.gov* under the link to Documents and Filings. Using eComment is an easy method for interested persons to submit brief, text-only comments on a project.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP23–35–000]

WBI Energy Transmission, Inc.; Notice of Request Under Blanket Authorization and Establishing Intervention and Protest Deadline

Take notice that on December 22, 2022, WBI Energy Transmission, Inc. (WBI Energy), 1250 West Century Avenue, Bismarck, North Dakota 58503, filed in the above referenced docket, a prior notice request pursuant to sections 157.205 and 157.208 of the Federal Energy Regulatory Commission's (Commission) regulations under the Natural Gas Act (NGA), and WBI Energy's blanket certificate issued in Docket No. CP82–487–000, for authorization to construct and operate 15.3 miles of natural gas lateral pipeline, a new receipt station and other associated facilities in Dunn County, North Dakota, and to construct a new interconnect [1] with Big Horn Gas Gathering, LLC (Big Horn Gas) and other associated facilities in Campbell and Sheridan Counties, Wyoming in support of its Grassland South Expansion Project (Project).

More specifically, the Project will provide 94,000 equivalent dekatherms per day (Dth/day) of firm natural gas transmission capacity from ONEOK Rockies Midstream, LLC's (ONEOK) Bear Creek natural gas processing facility (Bear Creek Plant) in Dunn County, North Dakota to a new interconnect with Big Horn Gas in Sheridan County, Wyoming. The Project will include constructing approximately 15.3 miles of 12-inch-diameter natural gas lateral pipeline from the Bear Creek Plant to WBI Energy's existing Manning Compressor Station with one valve setting midway between the two locations. WBI Energy will also construct a new receipt station at the Bear Creek Plant, a new interconnect with Big Horn Gas, and make other existing facility modifications, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TTY, (202) 502–8659.

Any questions regarding this prior notice request should be directed to Lori Myerchin, Director, Regulatory Affairs and Transportation Services, WBI Energy Transmission, Inc., P.O. Box 5601, Bismarck, North Dakota 58506, at (701) 530–21563, or by email to *lori.myerchin@wbienergy.com.*

Pursuant to section 157.9 of the Commission's Rules of Practice and

[1] WBI Energy acknowledges via a supplemental information filing to their prior notice request that its new proposed interconnect with Big Horn Gas in Sheridan County is referenced in an Abbreviated Joint Application for a Certificate of Public Conveniences and Necessity and Related Authorizations filed with the Commission by Wyoming Interstate Company, LLC, Fort Union Gas Gathering, LLC and Big Horn Gas, LLC on September 8, 2022 in Docket No. CP22–508–000.

Procedure,[2] within 90 days of this Notice the Commission staff will either: complete its environmental review and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or environmental assessment (EA) for this proposal. The filing of an EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify Federal and State agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all Federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Public Participation

There are three ways to become involved in the Commission's review of this project: you can file a protest to the project, you can file a motion to intervene in the proceeding, and you can file comments on the project. There is no fee or cost for filing protests, motions to intervene, or comments. The deadline for filing protests, motions to intervene, and comments is 5:00 p.m. Eastern Time on February 28, 2023. How to file protests, motions to intervene, and comments is explained below.

Protests

Pursuant to section 157.205 of the Commission's regulations under the NGA,[3] any person [4] or the Commission's staff may file a protest to the request. If no protest is filed within the time allowed or if a protest is filed and then withdrawn within 30 days after the allowed time for filing a protest, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request for authorization will be considered by the Commission.

Protests must comply with the requirements specified in section 157.205(e) of the Commission's regulations,[5] and must be submitted by the protest deadline, which is February 28, 2023. A protest may also serve as a motion to intervene so long as the protestor states it also seeks to be an intervenor.

Interventions

Any person has the option to file a motion to intervene in this proceeding. Only intervenors have the right to request rehearing of Commission orders issued in this proceeding and to subsequently challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and Procedure [6] and the regulations under the NGA [7] by the intervention deadline for the project, which is February 28, 2023. As described further in Rule 214, your motion to intervene must state, to the extent known, your position regarding the proceeding, as well as your interest in the proceeding. For an individual, this could include your status as a landowner, ratepayer, resident of an impacted community, or recreationist. You do not need to have property directly impacted by the project in order to intervene. For more information about motions to intervene, refer to the FERC website at *https://www.ferc.gov/resources/guides/how-to/intervene.asp*.

All timely, unopposed motions to intervene are automatically granted by operation of Rule 214(c)(1). Motions to intervene that are filed after the intervention deadline are untimely and may be denied. Any late-filed motion to intervene must show good cause for being late and must explain why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules and Regulations. A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies (paper or electronic) of all documents filed by the applicant and by all other parties.

Comments

Any person wishing to comment on the project may do so. The Commission considers all comments received about the project in determining the appropriate action to be taken. To ensure that your comments are timely and properly recorded, please submit your comments on or before February 28, 2023. The filing of a comment alone will not serve to make the filer a party to the proceeding. To become a party, you must intervene in the proceeding.

How To File Protests, Interventions, and Comments

There are two ways to submit protests, motions to intervene, and comments. In both instances, please reference the Project docket number CP23–35–000 in your submission:

(1) You may file your protest, motion to intervene, and comments by using the Commission's *eFiling* feature, which is located on the Commission's website (*www.ferc.gov*) under the link to *Documents and Filings*. New eFiling users must first create an account by clicking on ''*eRegister.*'' You will be asked to select the type of filing you are making; first select ''General'' and then select ''Protest'', ''Intervention'', or ''Comment on a Filing''; or [8]

(2) You can file a paper copy of your submission by mailing it to the address below. Your submission must reference the Project docket number CP23–35–000.

To mail via USPS, use the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

To mail via any other courier, use the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

The Commission encourages electronic filing of submissions (option 1 above) and has eFiling staff available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov*.

Protests and motions to intervene must be served on the applicant either by mail at: Lori Myerchin, Director, Regulatory Affairs and Transportation Services, WBI Energy Transmission, Inc., P.O. Box 5601, Bismarck, North Dakota 58506, or email (with a link to the document) at: *lori.myerchin@wbienergy.com*. Any subsequent submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be downloaded from the service list at the eService link on FERC Online.

Tracking the Proceeding

Throughout the proceeding, additional information about the project will be available from the Commission's

[2] 18 CFR (Code of Federal Regulations) 157.9.

[3] 18 CFR 157.205.

[4] Persons include individuals, organizations, businesses, municipalities, and other entities. 18 CFR 385.102(d).

[5] 18 CFR 157.205(e).

[6] 18 CFR 385.214.

[7] 18 CFR 157.10.

[8] Additionally, you may file your comments electronically by using the eComment feature, which is located on the Commission's website at *www.ferc.gov* under the link to Documents and Filings. Using eComment is an easy method for interested persons to submit brief, text-only comments on a project.

Office of External Affairs, at (866) 208–FERC, or on the FERC website at *www.ferc.gov* using the ''eLibrary'' link as described above. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. For more information and to register, go to *www.ferc.gov/docs-filing/esubscription.asp*.

Dated: December 30, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–00058 Filed 1–5–23; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL OP–OFA–051]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information 202–564–5632 or *https://www.epa.gov/nepa.*

Weekly receipt of Environmental Impact Statements (EIS)

Filed December 23, 2022 10 a.m. EST Through December 30, 2022 10 a.m. EST

Pursuant to 40 CFR 1506.9.

Notice: Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *https://cdxapps.epa.gov/cdx-enepa-II/public/action/eis/search.*

EIS No. 20230000, Draft Supplement, USFS, AK, Mendenhall Glacier Visitor Facility Improvements, Comment Period Ends: 02/21/2023, Contact: Monique Nelson 907–209–4090.

EIS No. 20230001, Draft, TxDOT, TX, I–35 Capital Express Central Project, Comment Period Ends: 03/07/2023, Contact: Doug Booher 512–416–2734.

Dated: December 30, 2022.

Cindy S. Barger,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2023–00019 Filed 1–5–23; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

[OMB No. 3064–0029; –0030]

Agency Information Collection Activities: Proposed Collection Renewal; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, as part of its obligations under the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to take this opportunity to comment on the renewal of the existing information collections described below (OMB Control No. 3064–0029 and—0030).

DATES: Comments must be submitted on or before March 7, 2023.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- *Agency website: https://www.fdic.gov/resources/regulations/federal-register-publications/.*
- *Email: comments@fdic.gov.* Include the name and number of the collection in the subject line of the message.
- *Mail:* Manny Cabeza (202–898–3767), Regulatory Counsel, MB–3128, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 17th Street NW building (located on F Street NW), on business days between 7:00 a.m. and 5:00 p.m.

All comments should refer to the relevant OMB control number. A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Manny Cabeza, Regulatory Counsel, 202–898–3767, *mcabeza@fdic.gov,* MB–3128, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

SUPPLEMENTARY INFORMATION: *Proposal to renew the following currently approved collection of information:*

1. *Title:* Notification of Performance of Bank Services.

OMB Number: 3064–0029.

Form Number: 6120/06.

Affected Public: Insured state nonmember banks and state savings associations.

Burden Estimate:

SUMMARY OF ESTIMATED ANNUAL BURDEN

[OMB No. 3064–0029]

Information collection (obligation to respond)	Type of burden (frequency of response)	Number of respondents	Number of responses per respondent	Time per response (HH:MM)	Annual burden (hours)
1. Notification of Performance of Bank Services, 12 CFR 304.3 (Mandatory).	Reporting (On Occasion)	294	2.21	00:30	325
Total Annual Burden (Hours):	.....	.....	.....	.....	*325*

Source: FDIC.

General Description of Collection: Insured state nonmember banks are required to notify the FDIC, under section 7 of the Bank Service Company Act (12 U.S.C. 1867), of the relationship with a bank service company. The Form FDIC 6120/06, Notification of Performance of Bank Services, may be used by banks to satisfy the notification requirement. There is no change in the method or substance of the collection. The estimated number of respondents, as well as the time per response and the frequency of response have remained the same.

2. *Title:* Securities of State Nonmember Banks and State Savings Associations.

OMB Number: 3064–0030.

Affected Public: Insured state nonmember banks and state savings associations.

Burden Estimate:

SUMMARY OF ESTIMATED ANNUAL BURDEN

[OMB No. 3064–0030]

Information collection (obligation to respond)	Type of burden (frequency of response)	Number of respondents	Number of responses per respondent	Time per response (HH:MM)	Annual burden (hours)
1. Form 3: Initial Statement of Beneficial Ownership, 12 CFR 335.611 (Mandatory).	Reporting (On Occasion)	20	1.33	01:00	27
2. Form 4: Statement of Changes in Beneficial Ownership, 12 CFR 335.612 (Mandatory).	Reporting (On Occasion)	20	79.48	00:30	795
3. Form 5: Annual Statement of Beneficial Ownership, 12 CFR 335.613 (Mandatory).	Reporting (Annual)	20	0.92	01:00	18
4. Form 8–A: Registration of Certain Classes of Securities, 12 CFR 335.211.	Reporting (On Occasion)	3	1	03:00	9
5. Form 8–K: Current Report, 12 CFR 335.311 (Mandatory).	Reporting (On Occasion)	20	10.03	05:17	1,062
6. Form 10: General Form for the Registration of Securities, 12 CFR 335.211 (Mandatory).	Reporting (On Occasion)	1	1	215:33	216
7. Form 10–K: Annual Report, 12 CFR 335.311 (Mandatory).	Reporting (Annual)	20	1.1	1,296:50	28,530
8. Form 10–Q: Quarterly Report, 12 CFR 335.311 (Mandatory).	Reporting (Quarterly)	20	3.1	104:40	6,489
9. Form 12b–25: Notification of Late Filing, 12 CFR 335.211 (Mandatory).	Reporting (On Occasion)	3	1	02:30	8
10. Form 15: Certification and Notice of Termination or Registration, 12 CFR 335.211 (Mandatory).	Reporting (On Occasion)	1	1	01:30	2
11. Form 25: Notification of Removal from Listing and Registration, 12 CFR 335.211 (Mandatory).	Reporting (On Occasion)	1	1	01:00	1
12. Schedule 13D: Certain Beneficial Ownership Changes, 12 CFR 335.211 (Mandatory).	Reporting (On Occasion)	1	1	14:30	15
13. Schedule 13–E–3: Going Private Transactions by Certain Issuers or Their Affiliates, 12 CFR 335.211 (Mandatory).	Reporting (On Occasion)	1	1	137:25	137
14. Schedule 13G: Certain Acquisitions of Stock, 12 CFR 335.211 (Mandatory).	Reporting (On Occasion)	5	1	12:24	62
15. Schedule 14A: Proxy Statements, 12 CFR 335.211 (Mandatory).	Reporting (Annual)	20	1.1	120:06	2,642
16. Schedule 14C: Information Required in Information Statements, 12 CFR 335.211 (Mandatory).	Reporting (On Occasion)	20	1.1	96:52	2,131
17. Schedule 14D–1: Tender Offer, 12 CFR 335.211 (Mandatory).	Reporting (On Occasion)	4	1	22:23	90
18. FDIC Form D, Statement of Policy on Offering Circulars (Voluntary).	Reporting (On Occasion)	154	1	01:00	154
19. FDIC Form 1–A, Statement of Policy on Offering Circulars (Voluntary).	Reporting (On Occasion)	154	1	01:00	154
Total Annual Burden (Hours):	.....	.....	.....	.....	*42,542*

Source: FDIC.

General Description of Collection: Section 12(i) of the Exchange Act grants authority to the Federal banking agencies to administer and enforce sections 10A(m), 12, 13, 14(a), 14(c), 14(d), 14(f), and 16 of the Exchange Act and sections 302, 303, 304, 306, 401(b), 404, 406, and 407 of the Sarbanes-Oxley Act of 2002. Pursuant to section 12(i), the FDIC has the authority, including rulemaking authority, to administer and enforce these enumerated provisions as may be necessary with respect to state nonmember banks and state savings associations over which it has been designated the appropriate Federal banking agency. Section 12(i) generally requires the FDIC to issue regulations substantially similar to those issued by the Securities and Exchange Commission (SEC) regulations to carry out these responsibilities. Thus, part 335 of the FDIC regulations incorporates by cross-reference the SEC rules and regulations regarding the disclosure and filing requirements of registered securities of state nonmember banks and state savings associations.

After evaluating the remaining ICs in the 2020 ICR, the FDIC has that 2 of the 19 ICs in the 2020 ICR should be removed from OMB No. 3064–0030. Form 8–C, where a reporting bank will file with the FDIC when registering certain classes of securities, has been removed. Form 10–C, where a covered bank will file with the FDIC specific business and financial information on risk factors in accordance with the registration of securities, has also been removed. The FDIC has removed these forms because they have never been used and are not required to be filed.

The estimated annual burden for OMB No. 3064–0030 of 42,542 hours, represents an increase of 30,996 hours from the 2020 ICR (11,546 hours). This increase is driven primarily by (1)

revised respondent and response count estimation methodologies for each of the ICs; (2) revised hourly burden estimates from the SEC for the SEC forms and schedules that are used in this ICR; (3) the removal of two collections from the 2020 ICR—Form 8–C and Form 10–C; and (4) the addition of two collections, both pursuant to the 1996 SOP, for Forms D and 1–A. The most significant increase annual burden comes from an increase in the hourly burden estimate for Form 10–K. The 2020 ICR estimated that Form 10–K would take about 140 hours per response. However, the SEC's most recent estimates for Form 10–K are 2,255.36 hours. Even after reducing the hourly burden by about 42.5 percent to account for heterogeneity in filing and reporting requirements across the 20 active FDIC-supervised IDIs expected to file Form 10–K the FDIC estimates that the hourly burden will be approximately 1,297 hours. This results in a total estimated annual burden of 28,530 hours, an increase of 25,590 hours from the 2020 ICR for this IC (2,940). This revision alone accounts for over 82 percent of the increase in total annual burden from the 2020 ICR to this ICR.

This information collection includes the following:

Beneficial Ownership Forms: FDIC Forms 3, 4, and 5 (FDIC Form Numbers 6800/03, 6800/04, and 6800/05)

Pursuant to section 16 of the Exchange Act, every director, officer, and owner of more than ten percent of a class of equity securities registered with the FDIC under section 12 of the Exchange Act must file with the FDIC a statement of ownership regarding such securities. The initial filing is on Form 3 and changes are reported on Form 4. The Annual Statement of beneficial ownership of securities is on Form 5. The forms contain information on the reporting person's relationship to the company and on purchases and sales of such equity securities. 12 CFR 335.601 through 336.613 of the FDIC's regulations, which cross-reference 17 CFR 240.16a of the SEC's regulations, provide the FDIC form requirements for FDIC Forms 3, 4, and 5 in lieu of SEC Forms 3, 4, and 5, which are described at 17 CFR 249.103 (Form 3), 249.104 (Form 4), and 249.105 (Form 5).

Form 8–A for Registration of Certain Classes of Securities

Form 8–A is used for registration pursuant to section 12(b) or (g) of the Exchange Act of any class of securities of any issuer which is required to file reports pursuant to section 13 or 15(d) of that Act or pursuant to an order exempting the exchange on which the issuer has securities listed from registration as a national securities exchange. Form 8–A is described at 17 CFR 249.208a. There is no actual ''Form 8–A'' as filers must produce a customized narrative document in compliance with the requirements in accordance with the filer's particular circumstances.

Form 8–K: Current Report

This is the current report that is used to report the occurrence of any material events or corporate changes that are of importance to investors or security holders and have not been reported previously by the registrant. It provides more current information on certain specified events than would Forms 10–Q and 10–K. The form description is at 17 CFR 249.308. There is no actual ''Form 8–K'' as filers must produce a customized narrative document in compliance with the requirements in accordance with the filer's particular circumstances.

Form 10: Forms for Registration of Securities

Form 10 is described at 17 CFR 249.210. There is no actual ''Form 10'' as filers must produce a customized narrative document in compliance with the requirements in accordance with the filer's particular circumstances.

Form 10–K: Annual Report

This annual report is used by issuers registered under the Exchange Act to provide information described in Regulation S–K, 17 CFR 229. The form is described at 17 CFR 249.310. There is no actual ''Form 10–K'' as filers must produce a customized narrative document in compliance with the requirements in accordance with the filer's particular circumstances.

Form 10–Q: Quarterly Reports

The Form 10–Q is a report filed quarterly by most reporting companies. It includes unaudited financial statements and provides a continuing overview of major changes in the company's financial position during the year, as compared to the prior corresponding period. The report must be filed for each of the first three fiscal quarters of the company's fiscal year and is due within 40 or 45 days of the close of the quarter, depending on the size of the reporting company. The description of Form 10–Q is at 17 CFR 249.308a. There is no actual ''Form 10–Q'' as filers must produce a customized narrative document in compliance with the requirements in accordance with the filer's particular circumstances.

Form 12b–25: Notification of Late Filing

This notification extends the reporting deadlines for filing quarterly and annual reports for qualifying companies. There is no FDIC Form 12b–25. The form is described at 17 CFR 249.322.

Form 15: Certification and Notice of Termination of Registration

This form is filed by each issuer to certify that the number of holders of record of a class of security registered under section 12(g) of the Exchange Act is reduced to a specified level in order to terminate the registration of the class of security. For a bank, the number of holders of record of a class of registered security must be reduced to less than 1,200 persons. For a savings association, the number of record holders of a class of registered security must be reduced to (1) less than 300 persons or (2) less than 500 persons and the total assets of the issuer have not exceeded $10 million on the last day of each of the issuer's most recent three fiscal years. In general, registration terminates 90 days after the filing of the certification. There is no FDIC Form 15. This form is described at 17 CFR 249.323.

Schedule 13D: Certain Beneficial Ownership Changes

This Schedule discloses beneficial ownership of certain registered equity securities. Any person or group of persons who acquire a beneficial ownership of more than 5 percent of a class of registered equity securities of certain issuers must file a Schedule 13D reporting such acquisition together with certain other information within ten days after such acquisition. Moreover, any material changes in the facts set forth in the Schedule generally precipitates a duty to promptly file an amendment on Schedule 13D. The SEC's rules define the term beneficial owner to be any person who directly or indirectly shares voting power or investment power (the power to sell the security). There is no FDIC form for Schedule 13D. This schedule is described at 17 CFR 240.13d–101.

Schedule 13E–3: Going Private Transactions by Certain Issuers or Their Affiliates

This schedule must be filed if an issuer engages in a solicitation subject to Regulation 14A or a distribution subject to Regulation 14C, in connection with a going private merger with its affiliate. An affiliate and an issuer may be required to complete, file, and disseminate a Schedule 13E–3, which directs that each person filing the schedule state whether it reasonably

believes that the Rule 13e–3 transaction is fair or unfair to unaffiliated security holders. There is no FDIC form for Schedule 13E–3. This schedule is described at 17 CFR 240.13e–100.

Schedule 13G: Certain Acquisitions of Stock

Certain acquisitions of stock that are over than 5 percent of an issuer must be reported to the public. Schedule 13G is a much abbreviated version of Schedule 13D that is only available for use by a limited category of persons (such as banks, broker/dealers, and insurance companies) and even then only when the securities were acquired in the ordinary course of business and not with the purpose or effect of changing or influencing the control of the issuer. There is no FDIC form for Schedule 13G. This schedule is described at 17 CFR 240.13d–102.

Schedule 14A: Proxy Statements

State law governs the circumstances under which shareholders are entitled to vote. When a shareholder vote is required and any person solicits proxies with respect to securities registered under section 12 of the Exchange Act, that person generally is required to furnish a proxy statement containing the information specified by Schedule 14A. The proxy statement is intended to provide shareholders with the proxy information necessary to enable them to vote in an informed manner on matters intended to be acted upon at shareholders' meetings, whether the traditional annual meeting or a special meeting. Typically, a shareholder is also provided with a proxy card to authorize designated persons to vote his or her securities on the shareholder's behalf in the event the holder does not vote in person at the meeting. Copies of preliminary and definitive (final) proxy statements and proxy cards are filed with the FDIC. There is no FDIC form for Schedule 14A. The description of this schedule is at 17 CFR 240.14a–101.

Schedule 14C: Information Required in Information Statements

An information statement prepared in accordance with the requirements of the SEC's Regulation 14C is required whenever matters are submitted for shareholder action at an annual or special meeting when there is no proxy solicitation under the SEC's Regulation 14A. There is no FDIC form for Schedule 14C. This schedule is described at 17 CFR 240.14c–101.

Schedule 14D–1: Tender Offer

This schedule is also known as Schedule TO. Any person, other than the issuer itself, making a tender offer for certain equity securities registered pursuant to section 12 of the Exchange Act is required to file this schedule if acceptance of the offer would cause that person to own over 5 percent of that class of the securities. This schedule must be filed and sent to various parties, such as the issuer and any competing bidders. In addition, the SEC's Regulation 14D sets forth certain requirements that must be complied with in connection with a tender offer. This schedule is described at 17 CFR 240.14d–100. There is no actual form for Schedule 14D–1 as filers must produce a customized narrative document in compliance with the requirements in accordance with the filer's particular circumstances.

Request for Comment

Comments are invited on: (a) Whether the collections of information are necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collections, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collections of information on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Federal Deposit Insurance Corporation.

Dated at Washington, DC, on January 3, 2023.

James P. Sheesley,

Assistant Executive Secretary.

[FR Doc. 2023–00055 Filed 1–5–23; 8:45 am]

BILLING CODE 6714–01–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 February 6, 2023.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Brookfield Bancshares, Inc., Brookfield, Illinois;* to become a bank holding company by acquiring the voting shares of First National Bank of Brookfield, Brookfield, Illinois.

Board of Governors of the Federal Reserve System.

Ann Misback,

Secretary of the Board.

[FR Doc. 2023–00066 Filed 1–5–23; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at

https://www.federalreserve.gov/foia/request.htm. Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington DC 20551–0001, not later than January 23, 2023.

A. Federal Reserve Bank of Kansas City (Jeffrey Imgarten, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–001:

1. *Dan K. Coup, Hope, Kansas*; to retain voting shares of Hope Bancshares, Inc., and thereby indirectly retain voting shares of The First National Bank of Hope, both of Hope, Kansas.

Board of Governors of the Federal Reserve System.

Ann Misback,

Secretary of the Board.

[FR Doc. 2023–00067 Filed 1–5–23; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in or To Acquire Companies Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR part 225) to engage de novo, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

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 question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the 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 January 23, 2023.

A. Federal Reserve Bank of Atlanta (Erien O. Terry, Assistant Vice President) 1000 Peachtree Street NE, Atlanta, Georgia 30309; Comments can also be sent electronically to *Applications.Comments@atl.frb.org*:

1. *Piedmont Bancorp, Inc., Peachtree Corners, Georgia*; to indirectly acquire an interest in Walton Funding LLC, Inlet Beach, Florida, and thereby engage in extending credit and servicing loans pursuant to section 225.28(b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System.

Ann Misback,

Secretary of the Board.

[FR Doc. 2023–00064 Filed 1–5–23; 8:45 am]

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GENERAL SERVICES ADMINISTRATION

[Notice–MY–2023–01; Docket No. 2023–0002; Sequence No. 1]

Office of Shared Solutions and Performance Improvement (OSSPI); Chief Data Officers Council (CDO); Notification of Upcoming Public Meeting

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

ACTION: Meeting notice.

SUMMARY: The Federal Chief Data Officers Council (CDO Council) is having a public meeting during which the CDO Council will provide updates about its activities and the implementation of the Chief Data Officer role in the Federal Government. The meeting will include panel discussions on how CDOs are impacting their agency missions and collaborating across the Government to address data challenges. There will also be presentations about the role of data in key administration priorities such as Diversity, Equity, Inclusion, and Accessibility (DEIA). The meeting will include a chance to submit written questions.

DATES: The CDO Council Public meeting will be held virtually on Friday, February 10, 2023 from 1 p.m. to 4:00 p.m. eastern time (ET).

ADDRESSES: Interested individuals must register to attend via the CDO Council website. To register for the meeting, please visit *https://www.cdo.gov/public-meeting-2023/.* Additional information about the public meeting, including meeting materials and the agenda, will be published on-line as it becomes available. The meeting will be recorded, and the recording will be posted online on *https://www.cdo.gov/.*

FOR FURTHER INFORMATION CONTACT: Ken Ambrose and Ashley Jackson, Senior Advisors, Office of Shared Solutions and Performance Improvement, Office of Government-wide Policy, General Services Administration, 1800 F Street NW, (Mail-code: MY), Washington, DC 20405, at 202–215–7330 (Ken Ambrose) and 202–538–2897(Ashley Jackson), or *cdocstaff@gsa.gov.*

SUPPLEMENTARY INFORMATION:

CDO Council Background

The Federal Chief Data Officers (CDO) Council was established by the Foundations for Evidence-Based Policymaking Act (Pub. L. 115–435), which also requires all Federal agencies to appoint a CDO. The Council's vision is to improve Government mission achievement and increase the benefits to the Nation through improvement in the management, use, protection, dissemination, and generation of data in government decision-making and operations. The CDO Council has more than 90 member CDOs from across the Federal Government, as well as representatives from the Office of Management and Budget, and other key councils and committees. The CDO Council has working groups that focus on critical topics as well as committees that help Federal agencies connect and collaborate. The CDO Council also works with other interagency executive councils on data related topics and activities. The CDO Council engages with the public and private users of Government data to improve data practices and access to data assets.

The CDO Council public meeting is for Federal employees as well as any members of the public, including industry, civil society, academia, and any users of Federal Government data. As a result of this meeting, the public will learn about the CDO Council efforts to expand the strategic use of data by Federal agencies, how the Federal Government is working to improve access to data assets, and how cross-agency councils are collaborating on data challenges. The public will also

learn how data plays a critical role in this Administration's priorities.

Procedures for Attendance and Public Comment

Register to attend the public meeting via the CDO Council website at *https://www.cdo.gov/public-meeting-2023/.* Attendees must register by 5 p.m. ET, on Tuesday, February 7, 2023. (GSA will be unable to provide technical assistance to attendees during the meeting.)

Accommodations

This meeting will include American Sign Language (ASL) interpretation as well as captioning services. Meeting materials will be posted to the meeting website in advance of the meeting. To request additional accommodations for a disability, please contact *cdocstaff@gsa.gov* at least seven (7) calendar days prior to the meeting to allow as much time as possible to process your request.

Background

The Chief Data Officers (CDO) Council was established in accordance with the requirements of the Foundations for Evidence-Based Policymaking Act of 2018 (Pub. L. 115–435). The Council's vision is to improve Government mission achievement and increase the benefits to the Nation through improvement in the management, use, protection, dissemination, and generation of data in Government decision-making and operations.

February 10, 2023 Meeting Agenda

- Call to Order and Logistics
- Welcome and CDO Council Accomplishments from the Chief Data Officers (CDO) Council Chair
- CDO Council, CDOs and Implementation of the Evidence Act
- Federal Data and the Evolving Role of the Federal CDO
- Panel Discussion: Driving Results for the People
- Public Comments and Questions
- Panel Discussion: Teamwork makes the Dream work—Collaboration Driving Success
- Panel Discussion: Supporting Operational Relevance
- The Power of Data for Improving Diversity, Equity, Inclusion, and Accessibility
- Closing Remarks

Ashley Jackson,

Senior Advisor CDO Council, Office of Shared Solutions and Performance Improvement, General Services Administration.

[FR Doc. 2023–00054 Filed 1–5–23; 8:45 am]

BILLING CODE 6820–14–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–N–0545]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Biological Products: Reporting of Biological Product Deviations and Human Cells, Tissues, and Cellular and Tissue-Based Product Deviations in Manufacturing

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments (including recommendations) on the collection of information by February 6, 2023.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be submitted to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. The OMB control number for this information collection is 0910–0458. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Cellular and Tissue-Based Product Deviations in Manufacturing; Forms FDA 3486 and 3486A

OMB Control Number 0910–0458—Extension

Under section 351 of the Public Health Service Act (PHS Act) (42 U.S.C. 262), all biological products, including human blood and blood components, offered for sale in interstate commerce must be licensed and meet standards, including those prescribed in FDA regulations, designed to ensure the continued safety, purity, and potency of such products. In addition, under section 361 of the PHS Act (42 U.S.C. 264), FDA may issue and enforce regulations necessary to prevent the introduction, transmission, or spread of communicable diseases between the States or possessions or from foreign countries into the States or possessions. Further, the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 351) provides that drugs and devices (including human blood and blood components) are adulterated if they do not conform with current good manufacturing practice (CGMP) assuring that they meet the requirements of the FD&C Act. Establishments manufacturing biological products, including human blood and blood components, must comply with the applicable CGMP regulations (parts 211, 606, and 820 (21 CFR parts 211, 606, and 820)) and current good tissue practice (CGTP) regulations (part 1271 (21 CFR part 1271)) as appropriate. FDA regards biological product deviation (BPD) reporting and human cells, tissues, and cellular and tissue-based product (HCT/P) deviation reporting to be an essential tool in its directive to protect public health by establishing and maintaining surveillance programs that provide timely and useful information.

Section 600.14 (21 CFR 600.14), in brief, requires the manufacturer who holds the biological product license, for other than human blood and blood components, and who had control over a distributed product when the deviation occurred, to report to the Center for Biologics Evaluation and Research (CBER) or to the Center for Drug Evaluation and Research (CDER) as soon as possible but at a date not to exceed 45 calendar days after acquiring information reasonably suggesting that a reportable event has occurred. Section 606.171 (21 CFR 606.171), in brief, requires licensed manufacturers of human blood and blood components, including Source Plasma, unlicensed registered blood establishments, and transfusion services, who had control over a distributed product when the deviation occurred, to report to CBER as soon as possible but at a date not to exceed 45 calendar days after acquiring information reasonably suggesting that a reportable event has occurred. Similarly, § 1271.350(b) (21 CFR 1271.350(b)), in brief, requires HCT/P establishments that manufacture non-

reproductive HCT/Ps described in § 1271.10 (21 CFR 1271.10) to investigate and report to CBER all HCT/P deviations relating to a distributed HCT/P that relates to the core CGTP requirements, if the deviation occurred in the establishment's facility or in a facility that performed a manufacturing step for the establishment under contract, agreement or other arrangement. Form FDA 3486 is used to submit BPD reports and HCT/P deviation reports.

Respondents to this collection of information are: (1) licensed manufacturers of biological products other than human blood and blood components, (2) licensed manufacturers of blood and blood components including Source Plasma, (3) unlicensed registered blood establishments, (4) transfusion services, and (5) establishments that manufacture non-reproductive HCT/Ps regulated solely under section 361 of the PHS Act as described in § 1271.10. The number of respondents and total annual responses are based on the BPD reports and HCT/P deviation reports FDA received in fiscal year (FY) 2021. The number of licensed manufacturers and total annual responses under § 600.14 include the estimates for BPD reports submitted to both CBER and CDER. Based on the information from industry, the estimated average time to complete a deviation report is 2 hours, which includes a minimal one-time burden to create a user account for those reports submitted electronically. The availability of the standardized report form, Form FDA 3486, and the ability to submit this report electronically to CBER (CDER does not currently accept electronic filings) further streamlines the report submission process.

CBER has developed a web-based addendum to Form FDA 3486 (Form FDA 3486A) to provide additional information when a BPD report has been reviewed by FDA and evaluated as a possible recall. The additional information requested includes information not contained in the Form FDA 3486 such as: (1) distribution pattern; (2) method of consignee notification; (3) consignee(s) of products for further manufacture; (4) additional product information; (5) updated product disposition; and (6) industry recall contacts. This information is requested by CBER through email notification to the submitter of the BPD report. This information is used by CBER for recall classification purposes. CBER estimates that 3 percent of the total BPD reports submitted to CBER would need additional information submitted in the addendum. CBER further estimates that it would take between 10 and 20 minutes to complete the addendum. For calculation purposes, CBER is using 15 minutes.

Activities such as investigating, changing standard operating procedures or processes, and followup are currently required under parts 211 (approved under OMB control number 0910–0139), 606 (approved under OMB control number 0910–0116), 820 (approved under OMB control number 0910–0073), and 1271 (approved under OMB control number 0910–0543) and, therefore, are not included in the burden calculation for the separate requirement of submitting a deviation report to FDA.

In the **Federal Register** of June 17, 2022 (87 FR 36512), we published a 60-day notice soliciting comment on the proposed collection of information. No comments were received.

We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR section; activity	FDA form No.	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
600.14; Reporting of product deviations by licensed manufacturers.	3486	103	6.864	707	2	1,414
606.171; Reporting of product deviations by licensed manufacturers, unlicensed registered blood establishments, and transfusion services.	3486	2,008	6.883	13,821	2	27,642
1271.350(b); HCT/P deviations	3486	80	2.575	206	2	412
Web-based Addendum	[2] 3486A	66	6.69	442	0.25 (15 minutes)	110.5
Total				15,176		29,578.5

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] Three percent of the number of respondents ((2,008 + 103 + 80) × 0.03 = 66) and total annual responses to CBER ((13,821 + 707 + 206) × 0.03 = 442).

Our estimated burden for the information collection reflects an overall decrease of approximately 65,014 hours and a corresponding decrease of 34,152 responses. We attribute this adjustment to a decrease in the number of deviation reports we received in FY 2021 from licensed manufacturers and unlicensed registered blood establishments under § 606.171. This is likely due to our issuance of the revised guidance document entitled ''Biological Product Deviation Reporting for Blood and Plasma Establishments'' (85 FR 14682, March 13, 2020), which provided blood and plasma establishments with revised recommendations related to BPD reporting. The revised guidance provided a less burdensome policy for reporting BPDs that is consistent with public health and eliminated the reporting of post donation information (PDI) events as BPD reports because these reports were no longer unexpected or unforeseeable. Given the substantial number of PDI reports FDA has received, the Agency is aware that these events occur, and the submission of additional PDI reports to FDA is unlikely to facilitate the identification of manufacturing or safety issues.

Dated: January 3, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–00013 Filed 1–5–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–N–2474]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Designated New Animal Drugs for Minor Use and Minor Species

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments (including recommendations) on the collection of information by February 6, 2023.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be submitted to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. The OMB control number for this information collection is 0910–0605. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Rachel Showalter, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 240–994–7399, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Reporting Associated With Designated New Animal Drugs for Minor Use and Minor Species—21 CFR Part 516

OMB Control Number 0910–0605—Extension

The Federal Food, Drug, and Cosmetic Act authorizes FDA to implement regulatory procedures intended to make more medications legally available to veterinarians and animal owners for the treatment of minor animal species as well as uncommon diseases in major animal species (21 U.S.C. 360ccc). This statutory authority provides incentives designed to help pharmaceutical companies overcome the financial burdens they face in providing limited-demand animal drugs. These incentives are only available to sponsors who have had their drugs designated by FDA under section 573 of the Minor Use and Minor Species Animal Health Act of 2004 (Pub. L. 108–282) (MUMS Act). Minor use drugs are drugs for use in major species (cattle, horses, swine, chickens, turkeys, dogs, and cats) that are needed for diseases that occur in only a small number of animals either because they occur infrequently or in limited geographic areas. Minor species are all animals other than the major species, for example, zoo animals, ornamental fish, parrots, ferrets, and guinea pigs. Some animals of agricultural importance are also minor species. These include animals such as sheep, goats, catfish, and honeybees.

MUMS-drug designation is completely optional for drug sponsors. The associated reporting only applies to those sponsors who request and are subsequently granted MUMS-drug designation status. Our regulations in 21 CFR part 516 specify the criteria and procedures for requesting MUMS-drug designation as well as the annual reporting requirements for MUMS designees. Sponsors use FDA's ''eSubmitter'' system to fill out a series of system generated screens to submit their request and annual report electronically. To access the ''eSubmitter'' system, sponsors will use a previously established account. Additional information about this system is available on our website at: *https://www.fda.gov/industry/fda-esubmitter.*

Description of Respondents: The respondents to this information collection are pharmaceutical companies that sponsor new animal drugs.

In the **Federal Register** of August 1, 2022 (87 FR 46961), FDA published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR section; activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
516.20; content and format of MUMS-drug designation request	5	2	10	16	160
516.26; requirements for amending MUMS-drug designation	3	1	3	2	6
516.27; change in sponsorship of MUMS-drug designation	1	1	1	1	1
516.29; termination of MUMS-drug designation	2	1	2	1	2
516.30; requirements of annual reports from sponsor(s) of MUMS-designated drugs	26	2	52	2	104
516.36; consequences for insufficient quantities of MUMS-designated drugs	1	1	1	3	3
Total					276

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The information collection reflects an overall adjustment decrease of 88 responses and 1,086 burden hours. Upon further review since publication of the 60-day notice, we determined that the number of respondents for new designation requests decreased (from 15 to 5 respondents) due to changes in industry, while the number of respondents for annual reports increased (from 15 to 26 respondents), due to an increase in the number of sponsors holding active MUMS designations since the last renewal of this collection. We also decreased the

number of responses per respondent for both the new designation request and the annual report (from five to two), based on our experience over the last 3 years.

Dated: January 3, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–00015 Filed 1–5–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

DoNation Campaign Collaboration Projects

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: HRSA's Health Systems Bureau (HSB), Division of Transplantation (DoT) solicits requests from non-federal public and private sector organizations and entities who wish to collaborate on the DoNation Campaign. DoNation collaboration projects will involve executing a series of activities that elevate the benefits and importance of organ, eye, and tissue donation and increase organ donor registrations among the public with a focus on individuals from diverse racial and ethnic backgrounds. Potential collaborating organizations must have demonstrated interest in and experience with coordinating activities that address key public health issues, be capable of managing the day-to-day operations associated with the proposed activity(ies), and be willing to participate substantively in the execution of the proposed activity(ies), not just providing funding or logistical support.

DATES: A request to participate as a collaborating organization must be received via email or postmarked mail at the addresses listed below by 5 p.m. EST on Tuesday, January 31, 2023.

ADDRESSES: Proposals for DoNation Campaign collaborations may be submitted via email to *DoNation@hrsa.gov*. Proposals may also be sent to Frank Holloman, Director, DoT; 5600 Fishers Lane; Rockville, MD 20852. Requests will meet the deadline if they are either (1) received on or before the deadline date; or (2) postmarked on or before the deadline date. Private metered postmarks will not be accepted as proof of timely mailing. Hand-delivered requests must be received by 5 p.m. EST on Tuesday, January 31, 2023. Requests that are received after the deadline will be returned to the sender.

FOR FURTHER INFORMATION CONTACT: Lauren Darensbourg, DoT, HSB, HRSA; 5600 Fishers Lane, Rockville, MD 20852; Telephone (301) 443–3737. Email: *DoNation@hrsa.gov*.

SUPPLEMENTARY INFORMATION:

Background

The Division of Transplantation (DOT), within HRSA's Heath Systems Bureau, is the primary federal entity responsible for oversight of the nation's organ and blood stem cell transplant systems and the implementation of programs and initiatives that increase organ and blood stem cell donations in the United States. DoT's mission is to protect public health and extend and enhance the lives of individuals with end-stage organ failure for whom an organ transplant is the most appropriate therapeutic treatment. DoT, on behalf of the Secretary of Health and Human Services, is authorized under 42 U.S.C. 274f–1(a) to establish a public education program on organ donation and the need for more organ donors. Specifically, the authority provides, ''[t]he Secretary shall, directly or through grants or contracts, establish a public education program in cooperation with existing national public awareness campaigns to increase awareness about organ donation and the need to provide for an adequate rate of such donations.''

The DoNation Campaign is an initiative of DoT with the goal of improving awareness about the importance of organ donation and transplantation as well as increasing organ donor registrations from the public, especially among those in racially and ethnically diverse communities. The DoNation Campaign recruits and engages workplaces of all sizes and across all industries in efforts to educate their employees and communities about organ, eye, and tissue donation and to encourage organ donor registration. The DoNation Campaign was built on the foundation of DoT's Workplace Partnership for Life Hospital Campaign, which encouraged thousands of hospitals and workplaces to educate and register more than 630,000 people as organ donors since 2011.

Requirements of the Collaboration

DoT is seeking organizations capable of managing the development and execution of activities (such as campaign amplification and workplace recruitment) and identifying ways to enhance campaign activities and participation. Approved proposals will require a co-sponsorship agreement signed by both participants that outlines the terms and parameters of the collaboration. The co-sponsorship will be in place for a period of 1 year from the date at which it bears all parties' signatures. No funding will be provided by DoT for any organization's involvement in this collaboration other than sharing existing layouts and files of relevant DoNation Campaign materials and the staff time needed to carry out activities in the co-sponsorship agreement.

DoNation Campaign Projects

Proposed DoNation Campaign projects will develop and implement activities that amplify the availability of the DoNation Campaign; recruit workplaces to participate in the campaign; and encourage organ, eye, and tissue donor registration. The collaborating organization shall help promote the DoNation Campaign through outreach activities that may include using social media, exhibiting at conferences or speaking at events, and recognizing campaign partners throughout the campaign and at the conclusion of the campaign year. The collaborating organization shall identify and recommend ways to enhance the delivery and outreach of the DoNation Campaign. Upon signing the above-referenced co-sponsorship agreement, and as long as the activation/activity meets all requirements, DoT will grant collaborating organizations the use of its DoNation-branded materials to promote the project and will highlight the collaboration via its digital and social media platforms, as deemed appropriate. Use of DoNation-branded materials should not imply any federal endorsement of the collaborating organization's general policies, activities, or products.

Eligibility for Collaborating Organizations

To be eligible, a requester shall: (1) have a demonstrated interest in, understanding of, and experience with managing the development and execution of programs, or other activities related to addressing key public health issues; (2) participate substantively in the proposed DoNation Campaign project (not just provide funding or logistical support); (3) demonstrate an organizational commitment and/or focus to increasing the number of registered organ, eye, and tissue donors in the United States; (4) demonstrate a willingness and ability to

champion the DoNation Campaign by leveraging existing partnerships, relationships, and networks to increase the number of participating workplaces each campaign year; and (5) agree to sign a co-sponsorship agreement with HRSA which will set forth the details of the DoNation Campaign project activity.

The collaborating organization shall furnish the necessary personnel, materials, services, and facilities to administer the proposed DoNation Campaign project. These duties will be determined and outlined in a co-sponsorship agreement.

Collaborating Organization Proposal

Each collaborating organization's proposal shall contain a description of: (1) the entity or organization; (2) its background in managing the development and execution of programs and/or other activities that address key public health issues, including but not limited to promoting the benefits and importance of organ, eye, and tissue donation and encouraging donor registrations; and (3) its proposed involvement in the DoNation Campaign project.

Evaluation criteria: DoT will select the DoNation Campaign projects using the following evaluation criteria:

(1) Requester's qualifications and capability to fulfill proposed DoNation Campaign project responsibilities;

(2) Requester's creativity in developing and executing the proposed project, including the medium through which participants are recruited and project messages are delivered;

(3) Requester's experience administering programs and/or activities at the national, regional, and/or state level that have successfully addressed key public health issues, including but not limited to increasing organ donor registration and awareness of the benefits and importance of organ, eye, and tissue donation;

(4) Requester's past or current work specific to programs and/or activities that address key public health issues among the public and those in racially and ethnically diverse communities, including but not limited to organ, eye, and tissue donation;

(5) Requester's personnel: name, professional qualifications, and specific expertise of key personnel who would be available to work on the DoNation Campaign project; and

(6) Requester's facilities and infrastructure: availability and description of facilities or other infrastructure necessary to develop and execute the programs, activations, and/or activities, including office space and information technology, and telecommunication resources.

Diana Espinosa,

Deputy Administrator.

[FR Doc. 2023–00063 Filed 1–5–23; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Announcement of First Meeting of the 2025 Dietary Guidelines Advisory Committee and Request for Comments; Correction

AGENCY: Office of the Assistant Secretary for Health, Office of the Secretary, Department of Health and Human Services.

ACTION: Notice; correction.

SUMMARY: The Office of the Assistant Secretary for Health published a document in the **Federal Register** of January 3, 2023, announcing the first public meeting for the 2025 Dietary Guidelines Advisory Committee (Committee) and Request for Comments. The document was published prematurely and the docket at *regulations.gov* is not yet ready to accept comments from the public and *DietaryGuidelines.gov* does not yet include the information stated in the notice related to the 2025 Committee members or the public meeting.

FOR FURTHER INFORMATION CONTACT: Designated Federal Officer, 2025 Dietary Guidelines Advisory Committee, Janet M. de Jesus, MS, RD; HHS/OASH/ODPHP, 1101 Wootton Parkway, Suite 420, Rockville, MD 20852; Phone: 240–453–8266; Email *DietaryGuidelines@hhs.gov.*

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of January 3, 2023, in FR Doc. 2022–28510, beginning on page 79, we inadvertently included information pertaining to the first meeting scheduled for February 9–10, 2023. At this time, we are not prepared to accept public comments until we have aligned other important matters pertaining to the release of the FRN. We will then republish the FRN in its entirety at a later date. We do apologize for the inconvenience and will welcome comment upon that time.

Paul Reed,

Deputy Assistant Secretary for Health, Office of Disease Prevention and Health Promotion.

[FR Doc. 2023–00028 Filed 1–5–23; 8:45 am]

BILLING CODE 4150–32–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Biological Chemistry and Macromolecular Biophysics Integrated Review Group; Biochemistry and Biophysics of Membranes Study Section.

Date: January 31–February 1, 2023.

Time: 9:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Nuria E. Assa-Munt, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4164, MSC 7806, Bethesda, MD 20892, (301) 451–1323, *assamunu@csr.nih.gov.*

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Pathophysiological Basis of Mental Disorders and Addictions Study Section.

Date: February 1–2, 2023.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Boris P. Sokolov, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5217A, MSC 7846, Bethesda, MD 20892, 301–408–9115, *bsokolov@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 3, 2023.

Victoria E. Townsend,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–00035 Filed 1–5–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Nursing Research; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Advisory Council for Nursing Research.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting. The open session will be videocast and can be accessed from the NIH Videocasting website *https://videocast.nih.gov/watch=48671*.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Council for Nursing Research.

Date: January 31, 2023.

Open: 11:00 a.m. to 12:30 p.m.

Agenda: Call to Order and Opening Remarks; NINR Director's Report; Recommendations of the CSR Advisory Council Working Group on Peer Review of NRSA Fellowship Applications.

Open: 1:00 p.m. to 2:15 p.m.

Agenda: NIH Research Support: Firearm Injury and Mortality Prevention; CDC Firearm Injury Prevention Research Initiatives.

Open: 2:30 p.m. to 3:30 p.m.

Agenda: NINR Concepts; Council Open Discussion.

Place: National Institute of Nursing Research, National Institutes of Health, 6701 Democracy Boulevard, One Democracy Plaza, Bethesda, MD 20892, *https://videocast.nih.gov/watch=48671* (Virtual Meeting).

Closed: 3:30 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Nursing Research, National Institutes of Health, 6701 Democracy Boulevard, One Democracy Plaza, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Elizabeth Tarlov, Ph.D., RN, Director, Division of Extramural Science Programs (DESP), National Institute of Nursing Research, Bethesda, MD 20892, (301) 594–1580, *elizabeth.tarlov@nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: *https://www.ninr.nih.gov/aboutninr/nacnr,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.361, Nursing Research, National Institutes of Health, HHS)

Dated: January 3, 2023.

Victoria E. Townsend,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–00033 Filed 1–5–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary & Integrative Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Complementary and Integrative Health Special Emphasis Panel; Exploratory Clinical Trials of Mind and Body Interventions (MB).

Date: January 26–27, 2023.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Center for Complementary and Integrative, Democracy II, 6707 Democracy Blvd., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: SUSHMITA Purkayastha, Ph.D., Scientific Review Officer, Office of Scientific Review, Division of Extramural Activities, NCCIH/NIH, 6707 Democracy Boulevard, Suite 401, Bethesda, MD 20892–5475, *sushmita.purkayastha@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.213, Research and Training in Complementary and Alternative Medicine, National Institutes of Health, HHS)

Dated: January 3, 2023.

Victoria E. Townsend,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–00036 Filed 1–5–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Eye Institute Special Emphasis Panel; BRAIN Initiative RFA: New Concepts and Early-Stage Research for Recording and Modulation in the Nervous System (R21).

Date: February 7, 2023.

Time: 11:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Eye Institute, 6700 Rockledge Drive, Bethesda, MD 20817 (Virtual Meeting).

Contact Person: Brian Hoshaw, Ph.D., Designated Federal Official, National Eye Institute, National Institutes of Health, Division of Extramural Research, 6700 B Rockledge Dr., Ste 3400, Rockville, MD 20892, 301–451–2020, *hoshawb@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: January 3, 2023.

Victoria E. Townsend,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–00032 Filed 1–5–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA–RM–22–008: NIH Faculty Institutional Recruitment for Sustainable Transformation (FIRST) Program: FIRST Cohort (U54) Four.

Date: January 12, 2023.

Time: 10:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jessica Bellinger, Ph.D., Scientific Review Officer, Center for Scientific of Review, National Institutes of Health, 6701 Rockledge Drive, Room 3158, Bethesda, MD 20892, (301) 827–4446, *bellingerjd@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 3, 2023.

Victoria E. Townsend,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–00034 Filed 1–5–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Advisory Eye Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend as well as those who need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Eye Council.

Date: February 3, 2023.

Open: 9:00 a.m. to 2:00 p.m.

Agenda: Presentation of the NEI Director's report, discussion of NEI programs, and concept clearances.

Place: National Eye Institute, 6700B Rockledge Drive, Bethesda, MD 20892.

Closed: 2:15 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Eye Institute, 6700B Rockledge Drive, Bethesda, MD 20892.

Contact Person: Kathleen C. Anderson, Ph.D., Director, Division of Extramural Activities, 6700B Rockledge Drive, Room 3440, Bethesda, MD 20892, (301) 451–2020, *kanders1@nei.nih.gov*.

Any interested person may file written comments with the committee by forwarding the statement to the contact person listed above before the meeting or within 15 days after the meeting. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has stringent procedures for entrance into NIH federal property. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *https://www.nei.nih.gov/about/advisory-committees/national-advisory-eye-council-naec,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program No. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: January 3, 2023.

Victoria E. Townsend,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–00031 Filed 1–5–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2022–1001]

National Maritime Security Advisory Committee; January 2023 Meetings

AGENCY: U.S. Coast Guard, Department of Homeland Security.

ACTION: Notice of Federal Advisory Committee meetings.

SUMMARY: The National Maritime Security Advisory Committee (Committee) will conduct a series of meetings over 2 days in Baton Rouge, LA to review and discuss on matters relating to national maritime security, including on enhancing the sharing of information related to cybersecurity risks that may cause a transportation security incident, between relevant Federal agencies and (a) State, local, and Tribal governments, (b) relevant public safety and emergency response agencies, (c) relevant law enforcement and security organizations, (d) maritime industry, (e) port owners and operators, and (f) terminal owners and operators. All meetings will be open to the public.

DATES:

Meetings: The Committee will meet on Tuesday, January 24, 2023, from 9 a.m. until noon Central Standard Time (CST), and on Wednesday, January 25, 2023, from 9 a.m. until noon CST. Please note these meetings may close early if the Committee has completed its business.

Comments and supporting documentation: To ensure your comments are received by Committee members before the meetings, submit your written comments no later than January 22, 2023.

ADDRESSES: The meetings will be held at Louisiana State University Foundation Building located at 3796 Nicholson Dr. Baton Rouge, LA 70802 *LSU Foundation—Home*. The meeting will also be held virtually. To join the virtual meetings or to request special accommodations, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section no later than 1 p.m. CDT on January 22, 2023, to obtain the needed information. The number of virtual lines are limited and will be

available on a first-come, first-served basis.

Pre-registration information: Pre-registration is required for attending virtual meetings. You must request attendance by contacting the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice. You will receive response with attendance instructions.

Attendees at the in-person meetings will be required to follow COVID–19 safety guidelines promulgated by the Centers for Disease Control and Prevention (CDC), which may include the need to wear masks. CDC guidance on COVID protocols can be found here: *https://www.cdc.gov/coronavirus/2019-ncov/communication/guidance.html*.

The National Maritime Security Advisory Committee is committed to ensuring all participants have equal access regardless of disability status. If you require reasonable accommodations due to a disability to fully participate, please email Mr. Ryan Owens at *ryan.f.owens.uscg.mil* or call (202) 302–6565 as soon as possible.

Instructions: You are free to submit comments at any time, including orally at the meetings as time permits, but if you want Committee members to review your comment before the meetings, please submit your comments no later than January 22, 2023. We are particularly interested in comments regarding the topics in the ''Agenda'' section below. We encourage you to submit comments through 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–2022–1001]. Comments received will be posted without alteration at *https://www.regulations.gov* including any personal information provided. You may wish to review the Privacy and Security Notice found via on the homepage *https://www.regulations.gov*. For more about the privacy and submissions in response to this document, see 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. Ryan Owens, Alternate Designated Federal Officer of the National Maritime Security Advisory Committee, 2703 Martin Luther King Jr. Avenue SE, Washington, DC 20593, Stop 7581, Washington, DC 20593–7581; telephone 202–302–6565 or email at *ryan.f.owens@uscg.mil*.

SUPPLEMENTARY INFORMATION: Notice of this meeting is in compliance with the *Federal Advisory Committee Act,* (5 U.S.C. appendix). The Committee was established on December 4, 2018, by section 602 of the *Frank LoBiondo Coast Guard Authorization Act of 2018,* Public Law 115–282, 132 Stat. 4190, and is codified in 46 U.S.C. 70112. The Committee operates under the provisions of the *Federal Advisory Committee Act* (5 U.S.C. appendix) and 46 U.S.C. 15109. The National Maritime Security Advisory Committee provides advice, consults with, and makes recommendations to the Secretary of Homeland Security, via the Commandant of the U.S. Coast Guard, on matters relating to national maritime security.

Agenda

Day 1

The agenda for the National Maritime Security Advisory Committee meeting is as follows:

Tuesday, January 24, 2023

(1) Call to Order.
(2) Introduction.
(3) Designated Federal Official Remarks.
(4) Roll call of Committee members and determination of quorum.
(5) Remarks from Committee Leadership.
(6) Discussion of Tasks. The Committee will provide an update on the following tasks:
a. Task T–2021–2: Provide input to support further development of the Maritime Cyber Risk Assessment Model.
b. Task T–2022–4: Transportation Worker Identification Credential (TWIC) Reader Program.
c. Task T–2022–5: Working Group on Cybersecurity Information Sharing.
(7) Public Comment Period.
(8) Meeting Recess.

Day 2

Wednesday, January 25, 2022

(1) Call to order.
(2) Introduction.
(3) Designated Federal Official Remarks.
(4) Committee Chair Remarks.
(5) Committee Sector Report. Committee members will provide an update on related efforts within their sector and will provide items of future interest for the Committee to consider.
(6) Update on TSA programs to secure vessels and facilities from mass shooter events.
(7) Public Comment Period.
(8) Closing Remarks/Plans for Next Meeting.
(9) Adjournment of Meeting.

A copy of all meeting documentation will be available at *https://homeport.uscg.mil/NMSAC* no later than January 22, 2023. Alternatively, you may contact Mr. Ryan Owens as noted in the **FOR FURTHER INFORMATION CONTACT** section above.

There will be a public comment period at the end of meetings. Speakers are requested to limit their comments to 3 minutes. Please note that the public comment period may end before the period allotted, following the last call for comments. Please contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section above to register as a speaker.

Dated: January 3, 2023.

Amy M. Beach,

Captain, U.S. Coast Guard, Director of Inspections and Compliance.

[FR Doc. 2023–00068 Filed 1–5–23; 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–2297]

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 April 6, 2023.

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–2297, 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, Federal Emergency Management Agency, Department of Homeland Security.

Community	Community map repository address
Le Sueur County, Minnesota and Incorporated Areas	
Project: 17–05–1791S Preliminary Date: July 14, 2022	
City of Cleveland	City Hall, 205 4th Street, Cleveland, MN 56017.
City of Elysian	City Hall, 110 West Main Street, Elysian, MN 56028.
City of Heidelberg	City Hall, 31552 181st Avenue, Heidelberg, MN 56071.
City of Kasota	Community Center, 200 North Webster Street, Kasota, MN 56050.
City of Kilkenny	Fire Department, 156 South Laurel Avenue, Kilkenny, MN 56052.
City of Le Sueur	Municipal Building, 203 South 2nd Street, Le Sueur, MN 56058.
City of Montgomery	Municipal Building, 201 Ash Avenue Southwest, Montgomery, MN 56069.
City of New Prague	City Hall, Planning and Zoning Department, 118 Central Avenue North, New Prague, MN 56071.
City of Waterville	City Hall, 200 3rd Street South, Waterville, MN 56096.
Unincorporated Areas of Le Sueur County.	Le Sueur County Environmental Services Department, 515 South Maple Avenue, Le Center, MN 56057.
Door County, Wisconsin and Incorporated Areas	
Project: 13–05–2619S Preliminary Dates: December 17, 2021 and July 29, 2022	
City of Sturgeon Bay	City Hall, 421 Michigan Street, Sturgeon Bay, WI 54235.
Unincorporated Areas of Door County.	Door County Government Center, 421 Nebraska Street, Sturgeon Bay, WI 54235.
Village of Egg Harbor	Bertschinger Community Center, 7860 State Highway 42, Egg Harbor, WI 54209.
Village of Ephraim	Administrative Offices, 10005 Norway Street, Ephraim, WI 54211.

Community	Community map repository address
Village of Sister Bay	Village Hall, 2383 Maple Drive, Sister Bay, WI 54234.

[FR Doc. 2023–00079 Filed 1–5–23; 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–2298]

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 April 6, 2023.

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–2298, 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, Federal Emergency Management Agency, Department of Homeland Security.

Community	Community map repository address
Gwinnett County, Georgia and Incorporated Areas	
Project: 18–04–0003S Preliminary Date: July 29, 2022	
City of Dacula	City Hall, 442 Harbins Road, Dacula, GA 30019.

Community	Community map repository address
Unincorporated Areas of Gwinnett County.	Gwinnett County Justice and Administration Center, 75 Langley Drive, Lawrenceville, GA 30046.
Fayette County, Iowa and Incorporated Areas	
Project: 19–07–0018S Preliminary Date: July 20, 2022	
City of Elgin	City Hall, 212 Main Street, Elgin, IA 52141.
City of Oelwein	City Hall, 20 2nd Avenue Southwest, Oelwein, IA 50662.
Unincorporated Areas of Fayette County.	Fayette County Courthouse, 114 North Vine Street, West Union, IA 52175.
Dickinson County, Kansas and Incorporated Areas	
Project: 17–07–0009S Preliminary Date: October 28, 2022	
City of Abilene	Office of the City Inspector, 419 North Broadway Street, Abilene, KS 67410.
City of Chapman	City Hall, 446 North Marshall Street, Chapman, KS 67431.
City of Enterprise	City Hall, 206 South Factory Street, Enterprise, KS 67441.
City of Herington	City Office, 17 North Broadway, Herington, KS 67449.
City of Solomon	City Office, 116 West Main Street, Solomon, KS 67480.
Unincorporated Areas of Dickinson County.	Dickinson County Courthouse, 109 East 1st Street, Suite 202, Abilene, KS 67410.
Carteret County, North Carolina and Incorporated Areas	
Project: 11–04–0730S Preliminary Date: July 30, 2021	
Town of Emerald Isle	Town Hall, 7500 Emerald Drive, Emerald Isle, NC 28594.
Town of Indian Beach	Town Hall, 1400 Salter Path Road, Indian Beach, NC 28512.
Town of Pine Knoll Shores	Town Hall, 100 Municipal Circle, Pine Knoll Shores, NC 28512.
Unincorporated Areas of Carteret County.	Carteret County Planning and Inspections Department, 402 Broad Street, Beaufort, NC 28516.

[FR Doc. 2023–00083 Filed 1–5–23; 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, Federal Emergency Management Agency, Department of Homeland Security.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Arkansas: Boone (FEMA Docket No.: B–2274).	City of Harrison (21–06–2249P).	The Honorable Jerry Jackson, Mayor, City of Harrison, P.O. Box 1715, Harrison, AR 72602.	Department of Public Works, 303 North 3rd Street, Harrison, AR 72601.	Nov. 28, 2022	050020
Colorado:					
El Paso (FEMA Docket No.: B–2274).	City of Fountain (21–08–0935P).	The Honorable Sharon Thompson, Mayor, City of Fountain, 116 South Main Street, Fountain, CO 80817.	City Hall, 116 South Main Street, Fountain, CO 80817.	Dec. 12, 2022	080061
El Paso (FEMA Docket No.: B–2274).	Unincorporated areas of El Paso County (21–08–0935P).	The Honorable Stan VanderWerf, Chair, El Paso County Board of Commissioners, 200 South Cascade Avenue, Suite 100, Colorado Springs, CO 80903.	El Paso County Pikes Peak Regional Building Department, 2880 International Circle, Colorado Springs, CO 80910.	Dec. 12, 2022	080059
Florida:					
Columbia (FEMA Docket No.: B–2268).	Unincorporated areas of Columbia County (21–04–5275P).	David Kraus, Manager, Columbia County, 135 Northeast Hernando Avenue, Suite 203, Lake City, FL 32056.	Columbia County Building Department, 135 Northeast Hernando Avenue, Suite 203, Lake City, FL 32056.	Dec. 1, 2022	120070
Duval (FEMA Docket No.: B–2274).	City of Jacksonville (22–04–2659P).	The Honorable Lenny Curry, Mayor, City of Jacksonville, 117 West Duval Street, Suite 400, Jacksonville, FL 32202.	Planning and Development Department, 214 North Hogan Street, Suite 300, Jacksonville, FL 32202.	Dec. 12, 2022	120077
Flagler (FEMA Docket No.: B–2268).	City of Palm Coast (21–04–6036P).	The Honorable David Alfin, Mayor, City of Palm Coast, 160 Lake Avenue, Palm Coast, FL 32164.	City Hall, 160 Lake Avenue, Palm Coast, FL 32164.	Nov. 25, 2022	120684
Miami-Dade (FEMA Docket No.: B–2274).	City of Miami (22–04–3664P).	The Honorable Francis X. Suarez, Mayor, City of Miami, 3500 Pan American Drive, Miami, FL 33133.	Building Department, 444 Southwest 2nd Avenue, 4th Floor, Miami, FL33130.	Dec. 5, 2022	120650
Monroe (FEMA Docket No.: B–2274).	Unincorporated areas of Monroe County (22–04–2344P).	The Honorable David Rice, Mayor, Monroe County Board of Commissioners, 9400 Overseas Highway, Suite 210, Marathon, FL 33050.	Monroe County Building Department, 2798 Overseas Highway, Suite 300, Marathon, FL 33050.	Dec. 12, 2022	125129
Monroe (FEMA Docket No.: B–2268).	Unincorporated areas of Monroe County (22–04–3487P).	The Honorable David Rice, Mayor, Monroe County Board of Commissioners, 9400 Overseas Highway, Suite 210, Marathon, FL 33050.	Monroe County Building Department, 2798 Overseas Highways, Suite 300, Marathon, FL 33050.	Dec. 5, 2022	125129
Monroe (FEMA Docket No.: B–2268).	Unincorporated areas of Monroe County (22–04–3491P).	The Honorable David Rice, Mayor, Monroe County Board of Commissioners, 9400 Overseas Highway, Suite 210, Marathon, FL 33050.	Monroe County Building Department, 2798 Overseas Highways, Suite 300, Marathon, FL 33050.	Dec. 5, 2022	125129
Monroe (FEMA Docket No.: B–2268).	Village of Islamorada (22–04–4369P).	The Honorable Pete Bacheler, Mayor, Village of Islamorada, 86800 Overseas Highway, Islamorada, FL 33036.	Building Department, 86800 Overseas Highway, Islamorada, FL 33036.	Dec. 12, 2022	120424
Palm Beach (FEMA Docket No.: B–2278).	City of Westlake (22-04-1062P).	The Honorable John Paul O'Connor, Mayor, City of Westlake, 4001 Seminole Pratt Whitney Road, Westlake, FL 33470.	City Hall, 4001 Seminole Pratt Whitney Road, Westlake, FL 33470.	Dec. 7, 2022	120018
Palm Beach (FEMA Docket No.: B–2268).	Unincorporated areas of Palm Beach County (21–04–1899P).	Verdenia C. Baker, Palm Beach County Administrator, 301 North Olive Avenue, West Palm Beach, FL 33401.	Palm Beach County Building Division, 2300 North Jog Road, West Palm Beach, FL 33411.	Nov. 25, 2022	120192
Pasco (FEMA Docket No.: B–2274).	Unincorporated areas of Pasco County (22–04–3652P).	The Honorable Kathryn Starkey, Chair, Pasco County Board of Commissioners, 37918 Meridian Avenue, Dade City, FL 33525.	Pasco County Building Construction Services Department, 8731 Citizens Drive, Suite 230, New Port Richey, FL 34654.	Dec. 5, 2022	120230
Polk (FEMA Docket No.: B–2268).	Unincorporated areas of Polk County (21–04–0198P).	Bill Beasley, Manager, Polk County, 330 West Church Street, Bartow, FL 33831.	Polk County Board of Commissioners, 330 West Church Street, Bartow, FL 33831.	Nov. 25, 2022	120261

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Sarasota (FEMA Docket No.: B–2268).	Unincorporated areas of Sarasota County (22–04–3339P).	The Honorable Alan Maio, Chair, Sarasota County Board of Commissioners, 1660 Ringling Boulevard, Sarasota, FL 34236.	Sarasota County Planning and Development Services Department, 1001 Sarasota Center Boulevard, Sarasota, FL 34240.	Nov. 28, 2022	125144
Georgia:					
Bryan (FEMA Docket No.: B–2268).	Unincorporated areas of Bryan County (22–04–1572P).	The Honorable Carter Infinger, Chair, Bryan County Board of Commissioners, 66 Captain Matthew Freeman Drive, Suite 201, Richmond Hill, GA 31324.	Bryan County Department of Public Works, 51 North Courthouse Street, Pembroke, GA 31321.	Dec. 2, 2022	130016
Columbia (FEMA Docket No.: B–2274).	Unincorporated areas of Columbia County (22–04–1178P).	The Honorable Douglas R. Duncan, Jr., Chair, Columbia County Board of Commissioners, P.O. Box 498, Evans, GA 30809.	Columbia County Engineering Services Department, 630 Ronald Reagan Drive, Evans, GA 30809.	Nov. 25, 2022	130059
Kentucky: Hardin (FEMA Docket No.: B–2268).	City of Elizabethtown (22–04–1909P).	The Honorable Jeff H. Gregory, Mayor, City of Elizabethtown, 200 West Dixie Avenue, Elizabethtown, KY 42701.	Stormwater Department, 200 West Dixie Avenue, Elizabethtown, KY 42701.	Dec. 1, 2022	210095
Massachusetts: Middlesex (FEMA Docket No.: B–2268).	City of Woburn (21–01–1457P).	The Honorable Scott Galvin, Mayor, City of Woburn, 10 Common Street, Woburn, MA 01801.	Engineering Department, 10 Common Street, Woburn, MA 01801.	Nov. 28, 2022	250229
Montana: Lewis and Clark (FEMA Docket No.: B–2268).	Unincorporated areas of Lewis and Clark County (22–08–0043P).	The Honorable Jim McCormick, Chair, Lewis and Clark County Board of Commissioners, 316 North Park Avenue, Room 345, Helena, MT 59623.	Lewis and Clark County, Disaster and Emergency Services Department, 316 North Park Avenue, Room 230, Helena, MT 59623.	Nov. 25, 2022	300038
North Carolina: Guilford (FEMA Docket No.: B–2274).	City of Greensboro (22–04–0428P).	The Honorable Nancy Vaughan, Mayor, City of Greensboro, P.O. Box 3136, Greensboro, NC 27402.	Stormwater Planning Division, 300 West Washington Street, Greensboro, NC 27401.	Dec. 20, 2022	375351
Ohio:					
Putnam (FEMA Docket No.: B–2268).	Unincorporated areas of Putnam County (21–05–3623P).	The Honorable Michael Lammers, Chair, Putnam County Board of Commissioners, 245 East Main Street, Suite 101, Ottawa, OH 45875.	Putnam County Courthouse, 245 East Main Street, Suite 101, Ottawa, OH 45875.	Nov. 25, 2022	390465
Putnam (FEMA Docket No.: B–2268).	Village of Glandorf (21–05–3623P).	The Honorable Charles R. Schroeder, Mayor, Village of Glandorf, P.O. Box 131, Glandorf, OH 45848.	Village Hall, 203 North Main Street, Glandorf, OH 45848.	Nov. 25, 2022	390470
Putnam (FEMA Docket No.: B–2268).	Village of Ottawa (21–05–3623P).	The Honorable J. Dean Meyer, Mayor, Village of Ottawa, 136 North Oak Street, Ottawa, OH 45875.	Village Hall, 136 North Oak Street, Ottawa, OH 45875.	Nov. 25, 2022	390465
South Carolina:					
Dorchester (FEMA Docket No.: B–2274).	Unincorporated areas of Dorchester County (21–04–5781P).	Jason L. Ward, Administrator, Dorchester County, 201 Johnston Street, St. George, SC 29477.	Dorchester County Building Services Department, 500 North Main Street, Summerville, SC 29483.	Nov. 25, 2022	450068
Sumter (FEMA Docket No.: B–2274).	City of Sumter (22–04–1578P).	The Honorable David P. Merchant, Mayor, City of Sumter, 21 North Main Street, Sumter, SC 29150.	Sumter City-County Planning Department, 12 West Liberty Street, Sumter, SC 29150.	Nov. 25, 2022	450184
Sumter (FEMA Docket No.: B–2274).	Unincorporated areas of Sumter County (22–04–1578P).	The Honorable James T. McCain, Jr., Chair, Sumter County Council, 13 East Canal Street, Sumter, SC 29150.	Sumter City-County Planning Department, 12 West Liberty Street, Sumter, SC 29150.	Nov. 25, 2022	450182
Texas:					
Brazoria (FEMA Docket No.: B–2278).	City of Pearland (21-06-3135P).	The Honorable Kevin Cole, Mayor, City of Pearland, 3519 Liberty Drive, Pearland, TX 77581.	Engineering Division, 2016 Old Alvin Road, Pearland, TX 77581.	Nov. 28, 2022	480077
Collin (FEMA Docket No.: B–2268).	City of McKinney (21–06–3118P).	The Honorable George Fuller, Mayor, City of McKinney, P.O. Box 517, McKinney, TX 75070.	Engineering Department, 221 North Tennessee Street, McKinney, TX 75069.	Dec. 5, 2022	480135
Collin (FEMA Docket No.: B–2274).	Unincorporated areas of Collin County (22–06–1296P).	The Honorable Chris Hill, Collin County Judge, 2300 Bloomdale Road, Suite 4192, McKinney, TX 75071.	Collin County Engineering Department, 4690 Community Avenue, Suite 22, McKinney, TX 75071.	Nov. 28, 2022	480130
Harris (FEMA Docket No.: B–2278).	City of Houston (21-06-3135P).	The Honorable Sylvester Turner, Mayor, City of Houston, P.O. Box 1562, Houston, TX 77251.	Floodplain Management Department, 1002 Washington Avenue, Houston, TX 77002.	Nov. 28, 2022	480296

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Gillespie (FEMA Docket No.: B–2278).	Unincorporated areas of Gillespie County (22-06-0845P).	The Honorable Mark Stroeher, Gillespie County Judge, 101 West Main Street, Mail Unit 9, Room 101, Fredericksburg, TX 78624.	Gillespie County Courthouse, 101 West Main Street, Mail Unit 9, Room 101, Fredericksburg, TX 78624.	Dec. 1, 2022	480696
Johnson (FEMA Docket No.: B–2268).	City of Burleson (22–06–1762P).	The Honorable Chris Fletcher, Mayor, City of Burleson, 141 West Renfro Street, Burleson, TX 76028.	City Hall, 141 West Renfro Street, Burleson, TX 76028.	Dec. 8, 2022	485459
Potter (FEMA Docket No.: B–2278).	City of Amarillo (21-06-3429P).	The Honorable Ginger Nelson, Mayor, City of Amarillo, 601 South Buchanan Street, Amarillo, TX 79101.	Capital Projects and Development Engineering Department, 808 South Buchanan Street, Amarillo, TX 79101.	Dec. 7, 2022	480529
Webb (FEMA Docket No.: B–2274).	City of Laredo (21–06–2407P).	The Honorable Pete Saenz, Mayor, City of Laredo, 1110 Houston Street, 3rd Floor, Laredo, TX 78040.	Planning and Zoning Department, 1413 Houston Street, Laredo, TX 78040.	Nov. 28, 2022	480651
Utah:					
Washington (FEMA Docket No.: B–2274).	City of Washington City (22–08–0088P).	The Honorable Kress Staheli, Mayor, City of Washington City, 111 North 100 East, Washington City, UT 84780.	Public Works Department, 1305 East Washington Dam Road, Washington City, UT 84780.	Dec. 7, 2022	490182
Washington (FEMA Docket No.: B–2274).	Unincorporated areas of Washington County (22–08–0088P).	The Honorable Victor Iverson, Chair, Washington County Commission, 197 East Tabernacle Street, St. George, UT 84770.	Washington County Administration Building, 197 East Tabernacle Street, St. George, UT 84770.	Dec. 7, 2022	490224
Virginia:					
Fairfax (FEMA Docket No.: B–2274).	Unincorporated areas of Fairfax County (22–03–0497P).	The Honorable Jeffrey C. McKay, Chair, Fairfax County Board of Supervisors, 12000 Government Center Parkway, Fairfax, VA 22035.	Fairfax County Planning Division, 12000 Government Center Parkway, Suite 449, Fairfax, VA 22035.	Dec. 7, 2022	510054
Independent City (FEMA Docket No.: B–2274).	City of Falls Church (22–03–0497P).	The Honorable P. David Tarter, Mayor, City of Falls Church, 300 Park Avenue, Falls Church, VA 22046.	Public Works Department, 300 Park Avenue, Suite 103E, Falls Church, VA 22046.	Dec. 7, 2022	515525

[FR Doc. 2023–00076 Filed 1–5–23; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0016]

Agency Information Collection Activities; Revision of a Currently Approved Collection: Application for Relief Under Former Section 212(c) of the Immigration and Nationality Act

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 60-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) invites the general public and other Federal agencies to comment upon this proposed revision of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.,* the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until March 7, 2023.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0016 in the body of the letter, the agency name and Docket ID USCIS–2006–0070. Submit comments via the Federal eRulemaking Portal website at *https://www.regulations.gov* under e-Docket ID number USCIS–2006–0070.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, telephone number (240) 721–3000 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *https://www.uscis.gov,* or call the USCIS Contact Center at 800–375–5283 (TTY 800–767–1833).

SUPPLEMENTARY INFORMATION:

Comments

You may access the information collection instrument with instructions or additional information by visiting the Federal eRulemaking Portal site at: *https://www.regulations.gov* and entering USCIS–2006–0070 in the search box. All submissions will be posted, without change, to the Federal eRulemaking Portal at *https://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *https://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

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

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application for Relief under Former Section 212(c) of the Immigration and Nationality Act.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–191; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. USCIS and EOIR use the information on the form to properly assess and determine whether the applicant is eligible for a waiver under former section 212(c) of INA.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection I–191 is 118 and the estimated hour burden per response is 1 hour and 23 minutes.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 163 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $60,770.

Dated: December 29, 2022.

Samantha L. Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2023–00004 Filed 1–5–23; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7056–N–57; OMB Control No. 2502–0423]

60-Day Notice of Proposed Information Collection: Single Family Premium Collections Subsystem-Upfront

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* March 7, 2023.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, REE, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit *https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs.*

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. This is not a toll-free number. HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit *https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs.*

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Single Family Premium Collections Subsystem-Upfront.

OMB Approval Number: 2502–0423.

OMB Expiration Date: 04/30/2023.

Type of Request: Revision.

Description of the need for the information and proposed use: SFPCS–U strengthens HUD's ability to manage and process upfront single-family mortgage insurance premium collections and corrections to submit data. It also improves data integrity for the Single Family Mortgage Insurance Program. FHA approved lenders use Automated Clearing House (ACH) applications for all transmissions with SFPCS–U. The collection of information is used to update HUD's Single Family Insurance System. The information collection is also used in calculating refunds due to former FHA mortgagors when they apply for homeowner refunds of the unearned portion of the mortgage insurance premium, 24 CFR 203.283, as appropriate. Without this information the premium collection/monitoring process would be severely impeded, and program data would be unreliable. In general, lender respondents use the ACH applications to remit the upfront premium through SFPCS–U to obtain mortgage insurance for the homeowner.

Respondents: Business or other for profit.

Estimated Number of Respondents: 2,365.

Estimated Number of Responses: 20,788.

Frequency of Response: 8.79.

Average Hours per Response: .15.

Total Estimated Burden: $137,285.54.

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 information; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507.

Jeffrey D. Little,

General Deputy Assistant Secretary, Office of Housing.

[FR Doc. 2023–00049 Filed 1–5–23; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7050–N–71; OMB Control No: 2577–0026]

30-Day Notice of Proposed Information Collection: Public Housing Operating Fund Program: Operating Budget and Related Form

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:* February 6, 2023.

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: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. This is not a toll-free number. HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit *https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs.* Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on July 28, 2022 at 87 FR 45354.

A. Overview of Information Collection

Title of Information Collection: PHA Board Resolution Approving Operating Budget.

OMB Approval Number: 2577–0026.

Type of Request: Reinstatement, with change, of previously approved collection for which approval has expired.

Form Number: HUD–52574.

Description of the need for the information and proposed use: The operating budget and related form are submitted by PHAs for the low-income housing program. The operating budget provides a summary of proposed budget receipts and expenditures by major category, as well as blocks for indicating approval of budget receipts and expenditures by the PHA and HUD. The related form provides a record of PHA Board approval of how the amount shown on the operating budget were arrived at, as well as justification of certain specified amounts. The information is reviewed by HUD to determine if the plan of operation adopted by the PHA and amounts included therein are reasonable for the efficient and economical operation of the development(s), and the PHA follows HUD procedures to assure that sound management practices will be followed in the operation of the development. PHAs are still required to prepare their operating budgets and submit them to their Board for approval prior to their operating fund grant being approved by HUD. The operating budgets must be kept on file and updated with actuals for HUD's review, if requested.

Respondents: Public Housing Authorities and the Public Housing Authority's board chair.

Information collection	Number of respondents	Average number of reponses per respondent	Total annual responses	Burden hours per response	Total burden hours	×	Hourly cost	=	Total annual cost
HUD–52574	3,000	1	3,000	0.17	510		$35.91		$18,314
PHA Operating Budget	3,000	2.1	6,300	1	6,300		35.91		226,233
PHA Operating Budget Actuals	350	5	4,500	1	4,500		35.91		161,595
Total	6,000		13,800		11,310				406,142

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

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

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

(5) ways to minimize the burden of the collection of information on those

who are to respond, including the use of automated collection techniques or other forms of information technology.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Colette Pollard,

Department Reports Management Officer, Office of Policy Development and Research, Chief Data Officer.

[FR Doc. 2023–00038 Filed 1–5–23; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7050–N–72; OMB Control No. 2502–0369]

30-Day Notice of Proposed Information Collection: Uniform Physical Standards & Physical Inspection Requirements

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:* February 6, 2023.

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. other available information. HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech and communication disabilities. To learn more about how to make an accessible telephone call, please visit *https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs.*

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, REE, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. This is not a toll-free number. HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit *https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs.* Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on September 6, 2022 at 87 FR 54520.

A. Overview of Information Collection

Title of Information Collection: Uniform Physical Standards & Physical Inspection Requirements.

OMB Approval Number: 2502–0369.

Type of Request: Reinstatement, with change of previously approved collection for which approval has expired.

Form Number: N/A.

Description of the need for the information and proposed use: All multifamily properties owned by HUD or with HUD-insured mortgages must be inspected regularly and certify that all exigent health and safety issues have been resolved.

Respondents: Affected public.

Estimated Number of Respondents: 6,135.

Estimated Number of Responses: 6,135.

Frequency of Response: Annual.

Average Hours per Response: 20 minutes.

Total Estimated Burden: 2,025.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

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

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

(5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Colette Pollard,

Department Reports Management Officer, Office of Policy Development and Research, Chief Data Officer.

[FR Doc. 2023–00039 Filed 1–5–23; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNMF02300 L12200000.NU0000 223L1109AF]

Notice of Temporary Closure of Public Lands in Taos County, NM

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of closure.

SUMMARY: Notice is hereby given that a closure to all public use and entry is in effect on certain public lands administered by the Taos Field Office to provide for public health and safety during the construction of the John Dunn Bridge and the Rio Hondo Bridge.

DATES: The John Dunn Bridge area will be closed until the completion of construction, or until February 28, 2023, whichever occurs first.

FOR FURTHER INFORMATION CONTACT: Judy Culver, Assistant Field Manager, telephone (575) 751–4703; address 1024 Paseo del Pueblo Sur, Taos, NM 87571; email *jculver@blm.gov.* Individuals in the United States who are deaf, blind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services.

Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: The temporary closure facilitates the Federal Highway Administration and Taos County, New Mexico project to address the rehabilitation of the John Dunn Bridge, and demolition and construction of a new Rio Hondo Bridge. In coordination with Taos County, the BLM will close Taos County Road B–007 to public use and travel, preventing access to the area to protect public safety and ensure the Federal Lands Access Program project can be completed without delay. The order will be in place through February 28, 2023. The temporary closure affects BLM-managed public lands within the Río Grande del Norte National Monument and Taos Field Office. The area will remain closed to all entry, including the portions of the Río Grande and Rio Hondo within the closure, Blackrock Hot Springs, Manby Hot Springs, all trails and roads within the John Dunn Bridge area, and adjacent BLM-managed lands within the area. The BLM will post temporary closure notices online at *https://www.blm.gov/new-mexico-advisories-and-closures.* The public lands affected by this closure are described as follows:

New Mexico Principal Meridian, Taos County, New Mexico

Township 27 North, Range 12 East
Section 31, all.

Exceptions: Temporary closure restrictions do not apply to Federal, State, and local officers and employees in the performance of their official duties; members of organized rescue or fire-fighting forces in the performance of their official duties; persons, agencies, municipalities, or companies with a written permit that specifically authorizes the otherwise prohibited act; and persons with written authorization from the BLM. An exemption does not absolve an individual or organization from liability or responsibility for any fire started by an exempted activity.

Penalties: Any person who violates this temporary closure or these restrictions may be tried before a United States Magistrate and fined in accordance with 18 U.S.C. 3571, imprisoned no more than 12 months under 43 U.S.C. 1733(a) and 43 CFR 8360.07, or both. In accordance with 43 CFR 8365.1–7, State or local officials may also impose penalties for violations of New Mexico law.

Effect of Closure: The entire area encompassed by the legal description as described in this notice and in the time period as described in this notice are temporarily closed to all public use, including pedestrians and vehicles, unless specifically excepted as described above.

(Authority: 43 CFR 8364.1, and 43 U.S.C. 1701 *et seq.*)

Melanie Barnes,

BLM New Mexico State Director.

[FR Doc. 2023–00048 Filed 1–5–23; 8:45 am]

BILLING CODE 4331–23–P

DEPARTMENT OF THE INTERIOR

National Indian Gaming Commission

Notice of Approved Class III Tribal Gaming Ordinance

AGENCY: National Indian Gaming Commission.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public of the approval of Klawock Cooperative Association Class III gaming ordinance by the Chairman of the National Indian Gaming Commission.

DATES: This notice is applicable January 6, 2023.

FOR FURTHER INFORMATION CONTACT: Dena Wynn, Office of General Counsel at the National Indian Gaming Commission, 202–632–7003, or by facsimile at 202–632–7066 (not toll-free numbers).

SUPPLEMENTARY INFORMATION: The Indian Gaming Regulatory Act (IGRA) 25 U.S.C. 2701 *et seq.,* established the National Indian Gaming Commission (Commission). Section 2710 of IGRA authorizes the Chairman of the Commission to approve Class II and Class III tribal gaming ordinances. Section 2710(d)(2)(B) of IGRA, as implemented by NIGC regulations, 25 CFR 522.8, requires the Chairman to publish, in the **Federal Register**, approved Class III tribal gaming ordinances and the approvals thereof.

IGRA requires all tribal gaming ordinances to contain the same requirements concerning tribes' sole proprietary interest and responsibility for the gaming activity, use of net revenues, annual audits, health and safety, background investigations and licensing of key employees and primary management officials. The Commission, therefore, believes that publication of each ordinance in the **Federal Register** would be redundant and result in unnecessary cost to the Commission.

Thus, the Commission believes that publishing a notice of approved Class III tribal gaming ordinances in the **Federal Register**, is sufficient to meet the requirements of 25 U.S.C. 2710(d)(2)(B). Every ordinance and approval thereof is posted on the Commission's website (*www.nigc.gov*) under General Counsel, Gaming Ordinances within five (5) business days of approval.

On December 8, 2022, the Chairman of the National Indian Gaming Commission approved Klawock Cooperative Association Class III Gaming Ordinance. A copy of the approval letter is posted with this notice and can be found with the approved ordinance on the NIGC's website (*www.nigc.gov*) under General Counsel, Gaming Ordinances. A copy of the approved Class III ordinance will also be made available upon request. Requests can be made in writing to the Office of General Counsel, National Indian Gaming Commission, Attn: Dena Wynn, 1849 C Street NW, MS #1621, Washington, DC 20240 or at *info@nigc.gov.*

National Indian Gaming Commission.

Dated: December 20, 2022.

Michael Hoenig,

General Counsel.

November 8, 2022
VIA E-MAIL
Patricia Cottle, President
Klawock Cooperative Association
310 Bayview Boulevard
Klawock, Alaska 99925
Re: Klawock Cooperative Association Gaming Ordinance

Dear President Cottle:

This letter responds to your September 14, 2022 request for the National Indian Gaming Commission Chairman to review and approve the Klawock Cooperative Association Gaming Ordinance. The NIGC originally approved the Klawock Cooperative Association Gaming Ordinance on November 6, 1993. The Klawock Cooperative Association Council adopted the amended Gaming Ordinance on July 12, 2022 and you signed the amended Gaming Ordinance on July 13, 2022. The amended Gaming Ordinance mirrors the NIGC's Revised Model Gaming Ordinance issued as part of Bulletin 2018–1. Thank you for bringing the gaming ordinance to our attention and for providing us with a copy. The ordinance is approved as it is consistent with the Indian Gaming Regulatory Act and NIGC regulations. Please note for future references that 25 C.F.R 522.3 requires tribes to submit any amendment to an ordinance for the Chair's approval within fifteen (15) days of adoption. If you have any questions concerning this letter or the ordinance review process, please contact Staff Attorney Danielle Wu at *danielle.wu@nigc.gov.*

Sincerely,
E. Sequoyah Simermeyer, Chairman

[FR Doc. 2023–00078 Filed 1–5–23; 8:45 am]

BILLING CODE 7565–01–P

DEPARTMENT OF THE INTERIOR

National Indian Gaming Commission

Notice of Approved Class III Tribal Gaming Ordinance

AGENCY: National Indian Gaming Commission.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public of the approval of Pawnee Nation of Oklahoma Class III gaming ordinance by the Chairman of the National Indian Gaming Commission.

DATES: This notice is applicable January 6, 2023.

FOR FURTHER INFORMATION CONTACT: Dena Wynn, Office of General Counsel at the National Indian Gaming Commission, 202–632–7003, or by facsimile at 202–632–7066 (not toll-free numbers).

SUPPLEMENTARY INFORMATION: The Indian Gaming Regulatory Act (IGRA) 25 U.S.C. 2701 *et seq.,* established the National Indian Gaming Commission (Commission). Section 2710 of IGRA authorizes the Chairman of the Commission to approve Class II and Class III tribal gaming ordinances. Section 2710 (d) (2) (B) of IGRA, as implemented by NIGC regulations, 25 CFR 522.8, requires the Chairman to publish, in the **Federal Register**, approved Class III tribal gaming ordinances and the approvals thereof.

IGRA requires all tribal gaming ordinances to contain the same requirements concerning tribes' sole proprietary interest and responsibility for the gaming activity, use of net revenues, annual audits, health and safety, background investigations and licensing of key employees and primary management officials. The Commission, therefore, believes that publication of each ordinance in the **Federal Register** would be redundant and result in unnecessary cost to the Commission.

Thus, the Commission believes that publishing a notice of approved Class III tribal gaming ordinances in the **Federal Register**, is sufficient to meet the requirements of 25 U.S.C. 2710 (d) (2) (B). Every ordinance and approval thereof is posted on the Commission's website (*www.nigc.gov*) under General Counsel, Gaming Ordinances within five (5) business days of approval.

On November 22, 2022, the Chairman of the National Indian Gaming Commission approved Pawnee Nation of Oklahoma Class III Gaming Ordinance. A copy of the approval letter is posted with this notice and can be found with the approved ordinance on the NIGC's website (*www.nigc.gov*) under General Counsel, Gaming Ordinances. A copy of the approved Class III ordinance will also be made available upon request. Requests can be made in writing to the Office of General Counsel, National Indian Gaming Commission, Attn: Dena Wynn, 1849 C Street NW, MS #1621, Washington, DC 20240 or at *info@nigc.gov*.

National Indian Gaming Commission.

Dated: December 20, 2022.

Michael Hoenig,

General Counsel.

November 22, 2022
VIA E–MAIL
Walter Echo-Hawk, President,
Pawnee Nation of Oklahoma Business Council 881 Little Dee Drive
Pawnee, Oklahoma 74058
Re: Pawnee Nation of Oklahoma Revised Gaming Ordinance

Dear Mr. Echo-Hawk:

This letter responds to your September 2, 2022 request for the National Indian Gaming Commission Chairman to review and approve the Revised Pawnee Nation of Oklahoma Gaming Ordinance. The Pawnee Nation of Oklahoma Business Council approved the revisions to the Pawnee Nation Gaming Ordinance on August 23, 2022 pursuant to Statute #22–04 and made technical amendments on October 27, 2022 pursuant to Statute #22–06. These revisions include the authorization of Class I gaming; modifications to the Nation's Gaming Commission including assignment of responsibilities between the Gaming Commission as a body and the Gaming Commission's staff; clarification of the process for enforcement actions; and the distinction between civil and criminal violations. Thank you for bringing these gaming ordinance amendments to our attention and for providing us with a copy. The ordinance is approved as it is consistent with the Indian Gaming Regulatory Act and NIGC regulations. If you have any questions concerning this letter or the ordinance review process, please contact Staff Attorney Danielle Wu at *danielle.wu@nigc.gov*.

Sincerely,
E. Sequoyah Simermeyer, Chairman

[FR Doc. 2023–00082 Filed 1–5–23; 8:45 am]

BILLING CODE 7565–01–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–DTS#–35088; 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 December 24, 2022, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted electronically by January 23, 2023.

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 December 24, 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

Key: State, County, Property Name, Multiple Name (if applicable), Address/Boundary, City, Vicinity, Reference Number.

ARIZONA

Pima County

Sam Hughes Neighborhood Historic District (Boundary Increase II), Roughly bounded by Speedway Blvd., Country Club Blvd., Broadway Blvd., and Campbell Ave., Tucson, BC100008614

ARKANSAS

Marion County

Mountain Village 1890, 1011 CS Woods Blvd., Bull Shoals, SG100008598

CONNECTICUT

New Haven County

Aeolian Company Factory Complex, 85 Tremont St., Meriden, SG100008602
Dudley Farm Historic District, 2351 Durham Rd., Guilford, SG100008609

New London County

Oil Mill Historic District, Gurley, Oil Mill, and Boston Post Rds., Waterford, SG100008593

MARYLAND

Harford County

Hirsch Residence, (Women In Maryland Architecture, 1920–1970 MPS), 605 Giles St., Havre de Grace, MP100008592

MICHIGAN

Menominee County

Anaem Omot, Address Restricted, Lake and Holmes vicinity, SG100008616

MISSISSIPPI

Lee County

Spring Hill Missionary Baptist Church, 589 North Green St., Tupelo, SG100008603

Washington County

Live Oak Cemetery, 1447 South Main St., Greenville, SG100008599

NEW YORK

Monroe County

Pines of Perinton Apartments, 1 White Pine Cir., Perinton vicinity, SG100008606

Oneida County

Avalon Knitting Company Mill, 728 Broad St., Utica, SG100008605

Orleans County

T.O. Castle and Son General Store, 12348 Maple Ridge Rd., Millville vicinity, SG100008604

PENNSYLVANIA

Allegheny County

Mellon Park, Roughly bounded by Shady, 5th, and Penn Aves.; Beechwood and Bakery Square Blvds.; and, Mellon Park Rd., Pittsburgh, SG100008596

York County

Hyson Schools Historic District, (Educational Resources of Pennsylvania MPS), Round Hill Church Rd., south of intersection with Hyson School Rd., East Hopewell Township, MP100008595

RHODE ISLAND

Newport County

St. Mary's Episcopal Church, 324 East Main Rd., Portsmouth, SG100008600

SOUTH CAROLINA

Charleston County

Phillips Community Historic District, SC 41, approx. between Virginia Rouse and Joe Rouse Rds., roughly bounded by Horlbeck Cr., Dunes West, and Park West, Mount Pleasant vicinity, SG100008589

Lexington County

Lakeview School, (Equalization Schools in South Carolina, 1951–1960), 1218 Batchelor St., West Columbia, MP100008590

SOUTH DAKOTA

Kingsbury County

First Methodist Episcopal Church of Lake Preston, 106 2nd St. NE, Lake Preston, SG100008611

WISCONSIN

Dane County

Paoli Co-Operative Creamery Company Plant, 6858 Paoli Rd., Montrose, SG100008612

Jackson County

Keefe, Franklin E. and Eva E., House, 221 North 3rd St., Black River Falls, SG100008607

Marinette County

Anaem Omot, Address Restricted, Wausaukee and Amburg vicinity, SG100008616

Milwaukee County

Oriental Theatre, 2216–2230 North Farwell Ave., Milwaukee, SG100008594

Schramka Funeral Home

608–612 East Burleigh St., Milwaukee, SG100008601

Additional documentation has been received for the following resource:

ARIZONA

Pima County

Sam Hughes Neighborhood Historic District (Additional Documentation), Roughly bounded by Speedway Blvd., Country Club Blvd., Broadway Blvd., and Campbell Ave., Tucson, AD00001363

Authority: Section 60.13 of 36 CFR part 60.

Dated: December 28, 2022.

Sherry A. Frear,

Chief, National Register of Historic Places/National Historic Landmarks Program.

[FR Doc. 2023–00029 Filed 1–5–23; 8:45 am]

BILLING CODE 4312–52–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–684 and 731–TA–1597–1598 (Preliminary)]

Gas Powered Pressure Washers From China and Vietnam; Institution of Antidumping and Countervailing Duty Investigations and Scheduling of Preliminary Phase Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase antidumping and countervailing duty investigation Nos. 701–TA–684 and 731–TA–1597–1598 (Preliminary) pursuant to the Tariff Act of 1930 (''the Act'') to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of gas powered pressure washers from China and Vietnam, provided for in statistical reporting numbers 8424.30.9000 and 8424.90.9040 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value and alleged to be subsidized by the Government of China. Unless the Department of Commerce (''Commerce'') extends the time for initiation, the Commission must reach a preliminary determination in antidumping and countervailing duty investigations in 45 days, or in this case by February 13, 2023. The Commission's views must be transmitted to Commerce within five business days thereafter, or by February 21, 2023.

DATES: December 30, 2022.

FOR FURTHER INFORMATION CONTACT: Lawrence Jones, (202) 205–3358, Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—These investigations are being instituted, pursuant to sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 1673b(a)), in response to a petition filed on December 30, 2022, by FNA Group, Inc., Pleasant Prairie, Wisconsin.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

Participation in the investigations and public service list.—Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in §§ 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping duty and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigations under the APO issued in the investigations, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference.—The Office of Investigations will hold a staff conference in connection with the preliminary phase of these investigations beginning at 9:30 a.m. on Friday, January 20, 2023. Requests to appear and/or participate at the conference should be emailed to *preliminaryconferences@usitc.gov* (DO NOT FILE ON EDIS) on or before January 18, 2023. Please provide an email address for each conference participant in the email. Information on conference procedures will be provided separately and guidance on joining the video conference will be available on the Commission's Daily Calendar. Requests to appear via videoconference must include a statement explaining why the witness cannot appear in person. The Director of the Office of Investigations, or other person designated to conduct the investigations, may in their discretion for good cause shown, grant such a request. Requests to appear as remote witness due to illness or a positive COVID–19 test result may be submitted by 3pm the business day prior to the conference. Information on conference procedures will be posted on the Commission's website at *https://www.usitc.gov/calendarpad/calendar.html.* A nonparty who has testimony that may aid the Commission's deliberations may request permission to participate by submitting a short statement.

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.

Written submissions.—As provided in §§ 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before January 25, 2023, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties shall file written testimony and supplementary material in connection with their presentation at the conference no later than noon on January 19, 2023. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures,* available on the Commission's website at *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf,* elaborates upon the Commission's procedures with respect to filings.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Certification.—Pursuant to § 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these investigations must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will acknowledge that any information that it submits to the Commission during these investigations 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 these or related investigations or reviews, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.12 of the Commission's rules.

By order of the Commission.

Issued: December 30, 2022.

Jessica Mullan,

Acting Supervisory Attorney.

[FR Doc. 2022–28667 Filed 1–5–23; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–23–001]

Sunshine Act Meetings

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: January 10, 2023 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW, Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agendas for future meetings: none.
2. Minutes.
3. Ratification List.
4. Commission vote on Inv. Nos. 701–TA–560–561 and 731–TA–1317–1328 (Review)(Carbon and Alloy Steel Cut-to-Length Plate from Austria, Belgium, Brazil, China, France, Germany, Italy, Japan, South Africa, South Korea, Taiwan, and Turkey). The Commission currently is scheduled to complete and file its determinations and views of the Commission on January 31, 2023.
5. Outstanding action jackets: none.

CONTACT PERSON FOR MORE INFORMATION: Tyrell Burch, Management Analyst and Information Officer, 202–205–2595.

The Commission is holding the meeting under the Government in the Sunshine Act, 5 U.S.C. 552(b). In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting. Earlier notification of meeting was not possible.

By order of the Commission.

Issued: January 4, 2023.

Katherine Hiner,

Acting Secretary to the Commission.

[FR Doc. 2023–00196 Filed 1–5–23; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Sualeh Ashraf, M.D.; Decision and Order

On September 30, 2021, the Drug Enforcement Administration (DEA) issued an Order to Show Cause (OSC) to Sualeh Ashraf, M.D. (Registrant), of Kissimmee, Florida. Request for Final Agency Action (RFAA), Exhibit (RFAAX) 1, at 1, 6. The OSC proposed the revocation of Registrant's DEA Certificate of Registration, Control No. BA2668183, and the denial of Registrant's pending application for an additional DEA Certificate of Registration, Application No. W21001036C, alleging that Registrant has ''committed such acts that would render [his] registration inconsistent with the public interest.'' *Id.* at 1–2 (citing 21 U.S.C. 824(a)(4) and 823(f)).[1]

The Agency makes the following findings of fact based on the uncontroverted evidence submitted by the Government in its RFAA, dated July 21, 2022.

I. Findings of Fact

A. Investigation of Registrant

According to the DEA Diversion Investigator assigned to investigate Registrant (DI), Registrant issued at least 33 prescriptions for controlled substances—specifically, oxycodone, Adderall, hydrocodone, and zolpidem—to three individuals identified as J.L., D.L., and J.L.2 between September 27, 2016, and May 24, 2018. RFAAX 17, at 1–2; *see also* RFAAX 2. As part of the investigation, DI obtained a transcript of an interview that the Polk County Sheriff's Office conducted with Registrant on June 12, 2018. RFAAX 17, at 3; *see also* RFAAX 12. During the interview, Registrant stated that he could not recall issuing any of the prescriptions for oxycodone,[2] although he admitted to issuing prescriptions for zolpidem to J.L. as recently as the month prior to the interview. RFAAX 17, at 3; *see also* RFAAX 12, at 54–57. DI made numerous attempts to obtain patient records for J.L., D.L., and J.L.2, including serving multiple Administrative Subpoenas to Registrant as well as contacting both the Polk County Sheriff's Office and the Florida Department of Health.[3] *Id.* at 3–4. Ultimately, Registrant was unable to produce any records regarding the prescriptions in question. *Id.* at 2.

Regarding Registrant's dispensing records, on July 26, 2017, DI made two visits to the clinic where Registrant was employed, DDILIH. *Id.* at 4. According to DI, Registrant stated that he began dispensing controlled substances in March 2017 and admitted to dispensing phentermine directly to uninsured patients. *Id.* Nonetheless, Registrant failed to produce an initial inventory of controlled substances and failed to produce any dispensing records of controlled substances in violation of 21 CFR 1304.03(b), 1304.22(c), and 1304.11(b).[4] RFAAX 17, at 5. After conducting an audit of DDILIH's supply of phentermine in comparison to Registrant's purchase invoices, DI concluded that 24,349 tablets of 37.5 mg units and 250 tablets of 8 mg units were unaccounted for.[5] RFAAX 17, at 5. After obtaining records from the Florida Prescription Drug Monitoring Program, DI also determined that Registrant failed to report his dispensing of phentermine to the Program as required by Florida law (Fla. Stat. § 893.055(3)(a)). *Id.; see also* RFAAX 9.

Additionally, DEA's investigation determined that Registrant failed to report the theft of 14 bottles of phentermine to DEA within one business day of discovery in violation of 21 CFR 1301.76(b), although the theft was reported to local police. RFAAX 17, at 5–6; *see also* RFAAX 10. Further, DEA's investigation determined that Registrant was dispensing phentermine in containers without warning labels that conformed to 21 CFR 290.5. RFAAX 17, at 6; *see also* RFAAX 8. Finally, DI determined that Registrant failed to properly store phentermine in a ''securely locked, substantially constructed cabinet,'' in violation of 21 CFR 1301.75(b), with Registrant admitting that J.L., who is not a DEA

[1] On November 3, 2021, Registrant submitted a signed document titled ''Corrective Action Plan'' in response to the OSC; however, the document appears to be primarily a written response to the Government's allegations with a brief Corrective Action Plan and several attachments. *See* RFAAX 16. The document did not indicate that Registrant intended to request a hearing. RFAAX 16. On April 21, 2022, the DEA issued a letter to Registrant denying his proposed Corrective Action Plan and advising him of his retained procedural and due process rights. RFAAX 14. On May 10, 2022, Registrant responded by email, in which he again did not request a hearing, and the Government did not otherwise receive any hearing request from Registrant. RFAAX 15; RFAA, at 1–3; *see also* RFAA, at 3 n.1.

[2] Registrant stated that he did not recall prescribing oxycodone with acetaminophen to J.L. but left open the possibility that he did, stating: ''. . . years ago if she had a headache or she had something she asked me I given [sic] 5 or 6 but not on a regular basis that I would remember . . .'' RFAAX 12, at 58–59.

[3] On April 3, 2019, DI sent an initial Administrative Subpoena to Registrant at Registrant's residential address. RFAAX 17, at 3. According to the DI, on May 1, 2019, Registrant's attorney responded by email, writing that while Registrant recognized the names of the individuals listed in the subpoena as relatives of J.L., he did not have any independent knowledge that they were patients at the weight management clinic (Dr. Drop it Like it's Hot, ''DDILIH'') where Registrant worked as a physician and of which J.L. was the manager and registered agent. *Id.* at 2–3; *see also* RFAAX 11. Registrant's attorney also wrote that Registrant was positive that none of the individuals listed in the subpoena were ever patients of his separately located primary private practice and that even if they had been patients at the clinic where Registrant was employed (DDILIH), ''all patient records at that office were confiscated by law enforcement at the time the office was raided and both [Registrant] and [J.L.] were arrested.'' RFAAX 17, at 3; *see also infra* I.C. (regarding the arrest of Registrant and J.L. for a separate matter). Registrant's attorney concluded that none of the records were returned to Registrant and so Registrant had no records to provide in response to the subpoena. RFAAX 17, at 3. On May 1, 2019, DI emailed Registrant's attorney informing him that he had not provided any information regarding the requested medical file for J.L. to which Registrant's attorney responded by email the next day stating that Registrant ''did not have possession of any patient charts for any of the individuals identified in the subpoena.'' *Id.*

However, when DI contacted both the Polk County Sheriff's Office and the Florida Department of Health, he was informed that no patient records had been seized from DDILIH during the execution of a search warrant on June 12, 2018. *Id.* at 4. On July 19, 2019, DI served an Administrative Subpoena to the Florida Department of Health and was informed on August 27, 2019, that the Florida Department of Health did not have any patient files for J.L., D.L., or J.L.2. *Id.* On June 11, 2021, DI served additional Administrative Subpoenas to Registrant at Registrant's DEA registered address to which Registrant responded on June 25, 2021, again stating that every document from his place of business had been confiscated and thus he had no records to produce. *Id.*

[4] According to DI, Registrant stated that the inventory was in J.L.'s possession and that his dispensing records were annotated in his patients' medical records; however, when asked to produce a patient medical record with an included dispensing record, Registrant presented ''a folder containing a document titled 'New patient information form,' a blank form with nothing to indicate that it pertained to a particular patient.'' RFAAX 17, at 5; *see also* RFAAX 4. The only other record that Registrant produced was ''a form dated July 26 (no year specified) which associated just 30 37.5 mg dosage units of phentermine with a patient identified as Y.G.'' RFAAX 17, at 5; *see also* RFAAX 7.

[5] When asked by DI to produce his purchase invoices for phentermine, Registrant produced invoices indicating that he had purchased 20,000 37.5 mg dosage units of phentermine over five different dates. *Id.; see also* RFAAX 6. Upon contacting Registrant's distributor, DI determined that on two additional dates, Registrant purchased an additional 5000 37.5 mg dosage units of phentermine and 250 8 mg dosage units of phentermine for which he did not have any records. RFAAX 17, at 5. Upon conducting an audit of DDILIH's supply of phentermine, DI initially determined that Registrant only had 621 37.5 mg dosage units on the premises, with an additional 30 dosage units later discovered. *Id.; see also* RFAAX 5.

registrant, ''stored controlled substances in her home during the hours when [DDILIH] was not open.'' RFAAX 17, at 6.

B. The Government Expert's Review of Registrant's Prescriptions

The DEA hired Dr. Mark Rubenstein, M.D., to opine on Registrant's controlled substance prescribing based on the prescription and dispensing information described above (RFAAX 2). RFAAX 17, at 4; *see also* RFAAX 18, at 1. The Agency finds that Dr. Rubenstein is an expert in the standard of care for prescribing controlled substances in Florida and gives his expert report, *see* RFAAX 3, and his Declaration full credit in this Decision. *See* RFAAX 13; RFAAX 18, at 1.

Dr. Rubenstein reviewed seven prescriptions for oxycodone issued by Registrant to J.L. from March 17, 2017, through April 26, 2018, and found that on at least four of the prescriptions, Registrant wrote that the prescription was issued for '''pain.''' RFAAX 18, at 2; *see also* RFAAX 2, at 17–24, 27–32. According to Dr. Rubenstein, although there were no corresponding medical records, ''the pattern, number, and frequency of these prescriptions indicate that [Registrant] issued [them] in order to treat some type of chronic nonmalignant pain.'' [6] RFAAX 18, at 2. Dr. Rubenstein explained the standard of care for the treatment of chronic nonmalignant pain with controlled substances in the State of Florida and concluded that ''[b]ecause there were no medical records to review, none of the requirements for treating chronic nonmalignant pain [were] satisfied with respect to the oxycodone prescriptions issued [by Registrant] to J.L.'' *Id.* Further, Dr. Rubenstein reviewed the prescriptions for Adderall that Registrant issued to J.L., D.L., and J.L.2 and concluded that ''because there [were] no medical records to review, there [was] no evidence that [Registrant] issued these prescriptions for a medical purpose permitted by Florida law,'' nor was there ''any evidence that the prescriptions were issued for any legitimate medical purpose.'' *Id.; see also* RFAAX 2.

Ultimately, Dr. Rubenstein found that there was ''no evidence that [Registrant] kept any medical records to justify the course of treatment of [patients J.L., D.L., and J.L.2].'' RFAAX 18, at 2. Based on his expert medical opinion, Dr. Rubenstein concluded, and the Agency agrees, that ''[Registrant] engaged in a pattern or practice of prescribing [that] demonstrated a lack of reasonable skill or safety to [the] patients, that [Registrant] failed to document an appropriate physician-patient relationship with [the patients], and that [Registrant's] prescribing of controlled substances was not within the usual scope of professional practice and cannot be deemed issued for a legitimate medical purpose.'' *Id.; see also* RFAAX 3, at 4.

C. Registrant's Case

As previously noted, Registrant responded to the OSC through a signed document entitled, ''Corrective Action Plan.'' *See* RFAAX 16. The document includes a Corrective Action Plan and also details Registrant's position on the Government's allegations with supporting documentation.[7] *Id.*

Within the ''Corrective Action Plan,'' Registrant offered explanation of his misconduct. RFAAX 16, at 2–6, 7–9. Registrant described how he began working with J.L. at their weight loss clinic, where J.L. was the business owner and Registrant was the doctor of record.[8] *Id.*[9] Regarding the at least 33 controlled substance prescriptions at issue, Registrant argued that he ''did nothing wrong intentionally or otherwise,'' and repeatedly claimed that he did not issue the prescriptions.[10] RFAAX 16, at 2–6. Registrant suggested that it was likely that J.L. forged his signature and issued the prescriptions to herself.[11] RFAAX 16, at 2–6. Registrant also claimed that he had never met D.L., J.L.'s husband, that he had never met J.L.2, J.L.'s son, and that he did not even know that J.L. had a son. *Id.* at 3–4. Registrant argued that, because he did not issue the controlled substance prescriptions in question, he did not violate any state or federal laws nor did he fail to adhere to the Florida standard of care. *Id.* at 2–6. Finally, Registrant concluded that ''[i]t should be obvious to the DEA that the criminal mind and the criminal muscle behind the endeavors described on the [OSC] are the works of J.L.'' *Id.* at 9.

Registrant proposed that, going forward, he would not leave his prescription pads outside of his briefcase or purview and would not allow anyone else to handle his prescriptions; that he would not allow anyone else to call in his prescriptions to pharmacies and would not give anyone else access to his passwords; and that he would monitor the prescription activity taking place under his name on the Florida Prescription Drug Monitoring Program online database. *Id.* at 2.[12]

II. Discussion

A. The Five Public Interest Factors

Under the Controlled Substances Act (CSA), ''[a] registration . . . to . . . dispense a controlled substance . . . may be suspended or revoked by the Attorney General upon a finding that the registrant . . . has committed such acts as would render his registration under section 823 of this title inconsistent with the public interest as determined under such section.'' 21 U.S.C. 824(a). An application for a practitioner's registration may be denied upon a determination that ''the issuance of such registration . . . would be inconsistent with the public interest.'' 21 U.S.C. 823(f). In making the public interest determination, the CSA requires consideration of the following factors:

[6] Dr. Rubenstein noted that if Registrant had actually issued these four prescriptions to treat acute pain, Registrant would have been in violation of Florida regulations because the prescriptions were for 30-day supplies and Florida regulations provide that a prescription for a Schedule II opioid for acute pain may not exceed a seven-day supply. RFAAX 18, at 2 n.1; *see also* RFAAX 2, at 17–20, 27–32.

[7] The Agency considers RFAAX 15 and 16 collectively as a written response. *See Creekbend Community Pharmacy*, 86 FR 40,627, 40,627–29, 40,636 (2021) (the Agency considered an ambiguous document submitted by the Respondent Pharmacy that contained both a written response to the OSC, not submitted in lieu of a hearing, and a Corrective Action Plan).

[8] Registrant further described how J.L. ''had alleged to be a nurse'' and had a good reputation, but was later revealed to be unlicensed. *Id.* at 7–8.

[9] *See also id.* at 18–25. According to Registrant, in June 2018, J.L. was arrested for practicing health care without a license and Registrant was arrested for employing J.L. as an unlicensed nurse. *Id.* at 8, 13. According to Registrant, everything was investigated by Polk County Police over a period of years and ''[t]he Polk County State Attorney's Office dismissed all of the charges against [him]'' and that ''the Court granted expungement of [his] arrest and criminal charges.'' *Id.* at 9; *see also id.* at 12–17.

[10] Compare this unequivocal denial to his statement to local police that he ''[did not] recall'' prescribing oxycodone with acetaminophen to J.L. while leaving open the possibility that ''. . .years ago if she had a headache or she had something she asked me I given [sic] 5 or 6 but not on a regular basis that I would remember . . . .'' RFAAX 12, at 58–59.

[11] However, in his recorded statement for the Polk County Sheriff's Office, Registrant seems to admit that he left pre-signed prescriptions for J.L. to fill out for patients when he was not available. RFAAX 12, at 15–18.

[12] On April 21, 2022, the DEA issued a letter to Registrant denying his proposed Corrective Action Plan to which Registrant expressed his disagreement in an email dated May 10, 2022. RFAAX 14; RFAAX 15. Registrant wrote, ''In terms of the public safety: [J.L.] was not public as she was part of the employ [sic] apparatus that betrayed my trust in her as she prescribed to herself and family. It was not rampant public safety [sic]. Moreover, all I can think of in my plan to prevent future breach of trust is to keep my prescription pads locked under my control.'' RFAAX 15, at 1–2.

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety.

21 U.S.C. 823(f).

The DEA considers these public interest factors in the disjunctive. *Robert A. Leslie, M.D.,* 68 FR 15,227, 15,230 (2003). Each factor is weighed on a case-by-case basis. *Morall* v. *Drug Enf't Admin.,* 412 F.3d 165, 173–74 (D.C. Cir. 2005). Any one factor, or combination of factors, may be decisive. *David H. Gillis, M.D.,* 58 FR 37,507, 37,508 (1993).

While the Agency has considered all of the public interest factors in 21 U.S.C. 823(f),[13] the Government's evidence in support of its *prima facie* case for revocation of Registrant's registration and denial of Registrant's application is confined to Factors Two and Four. *See* RFAA, at 9–14. Moreover, the Government has the burden of proof in this proceeding. 21 CFR 1301.44. The Agency finds that the Government's evidence satisfies its *prima facie* burden of showing that Registrant's continued registration would be ''inconsistent with the public interest.'' 21 U.S.C. 824(f). The Agency further finds that Registrant failed to provide sufficient evidence to rebut the Government's *prima facie* case.

B. Factors Two and Four

Evidence is considered under Public Interest Factors Two and Four when it reflects compliance (or non-compliance) with laws related to controlled substances and experience dispensing controlled substances. *See Kareem Hubbard, M.D.,* 87 FR 21,156, 21,162 (2022). The Government has alleged that Registrant's prescribing practices violated both federal and Florida state law. RFAAX 1, at 2–4. According to the CSA's implementing regulations, a lawful controlled substance order or prescription is one that is ''issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice.'' 21 CFR 1306.04(a). Moreover, among the listed acts in Florida law that ''shall constitute grounds'' for which disciplinary action may be taken are: ''[e]ngaging in a pattern of practice when prescribing . . . controlled substances which demonstrates a lack of reasonable skill or safety to patients,'' Fla. Stat. § 456.072(gg) (July 1, 2016 to June 30, 2020);[14] [15] and violating a standard of practice for the treatment of chronic nonmalignant pain with a controlled substance,[16] Fla. Stat. § 456.44(3)(a), (b), (c), and (f) (July 1, 2016 to June 30, 2020). S*ee also* Fla. Stat. § 458.331(1)(m) and (q) (July 1, 2016 to Dec. 31, 2019) (setting out grounds for denial of a license or disciplinary action, including failing to keep legible medical records that justify the course of treatment of the patient and prescribing, dispensing, administering, mixing, or otherwise preparing a controlled substance other than in the course of the physician's professional practice, without regard to his or her intent).

Based on the credible and unrebutted opinion of the Government's expert, the Agency found above that Registrant's prescribing of at least 33 controlled substance prescriptions to at least three different patients was not within the usual scope of professional practice, that the prescriptions could not be deemed issued for a legitimate medical purpose, that Registrant failed to document an appropriate physician-patient relationship with the patients, and that Registrant engaged in a pattern or practice of prescribing that demonstrated a lack of reasonable skill or safety to his patients. *See supra* I.B. Further, there is no evidence in the record that Registrant adhered to the requirements under Florida state law for issuing controlled substances to treat nonmalignant pain.

In addition, the Government has alleged that Registrant violated various federal regulations applicable to his dispensing of controlled substances. RFAAX 1, at 4 (citing 21 CFR 1304.03(b), 1304.22(c), 1304.11(b), 290.5, 1301.76(b), 1301.75(b)). Based on the DI's Declaration and the entire record, the Agency found above that Registrant failed to produce dispensing records in violation of 21 CFR 1304.03(b) and 1304.22(c); failed to produce an initial inventory of controlled substances in violation of 21 CFR 1304.11(b); failed to report the theft of phentermine to DEA in violation of 21 CFR 1301.76(b); and failed to store phentermine in a ''securely locked, substantially constructed cabinet'' in violation of 21 CFR 1301.75(b). *See supra* I.A. Further, there is also substantial record evidence that Registrant dispensed phentermine, a Schedule IV controlled substance, in violation of the requirements of 21 CFR 290.5. Accordingly, Registrant violated ''applicable . . . Federal . . . law [ ] relating to controlled substances,'' which supports the Government's case for revocation. 21 U.S.C. 823(f)(4).[17]

In sum, the Agency finds that the record contains substantial evidence that Registrant prescribed and dispensed controlled substances in violation of both federal and state law. The Agency, therefore, finds that Factors Two and Four weigh in favor of revocation of Registrant's registration and denial of Registrant's application and thus finds Registrant's registration to be inconsistent with the public

[13] As to Factor One, there is no record evidence of disciplinary action against Registrant's state medical license. 21 U.S.C. 823(f)(1). State authority to practice medicine is ''a necessary, but not a sufficient condition for registration . . . .'' *Robert A. Leslie, M.D.,* 68 FR at 15230. Therefore, ''[t]he fact that the record contains no evidence of a recommendation by a state licensing board does not weigh for or against a determination as to whether continuation of [or granting of a] DEA certification is consistent with the public interest.'' *Roni Dreszer, M.D.,* 76 FR 19434, 19444 (2011). As to Factor Three, there is no evidence in the record that Registrant has been convicted of an offense under either federal or state law ''relating to the manufacture, distribution, or dispensing of controlled substances.'' 21 U.S.C. 823(f)(3). However, ''the absence of such a conviction is of considerably less consequence in the public interest inquiry'' and is therefore not dispositive. *Dewey C. MacKay, M.D.,* 75 FR 49956, 49973 (2010). As to Factor Five, the Government's evidence fits squarely within the parameters of Factors Two and Four and does not raise ''other conduct which may threaten the public health and safety.'' 21 U.S.C. 823(f)(5). Accordingly, Factor Five does not weigh for or against Registrant.

[14] By regulation, Florida states the purposes for maintaining medical records, including to ''furnish documentary evidence of the course of the patient's medical evaluation, treatment, and change in condition.'' Admin. Code Ann. r. 64B8–9.003(1)(b).

[15] Relevant years' iterations of the provisions of Florida law cited in this Decision are either identical to or do not deviate substantively from the cited texts.

[16] Such standards of practice include: before beginning any treatment, conducting a documented and complete medical history and physical examination proportionate to the diagnosis that justifies treatment; developing a written individualized treatment plan for each patient; discussing, with the patient or specified associated individual, the risks and benefits of the use of controlled substances, including the risks of abuse and addiction, as well as physical dependence and its consequences; and maintaining accurate, current, and complete records that are accessible and readily available for review and that comply with legal requirements.

[17] The Government has also alleged that Registrant violated Fla. Stat. § 893.055(3)(a), which requires a dispensing practitioner to report to the Florida Prescription Drug Monitoring Program specific information about every controlled substance dispensed. RFAAX 1, at 3–4. Based on the DI's Declaration and RFAAX 9, the Agency found above that Registrant failed to report his dispensing of phentermine to the Florida Prescription Drug Monitoring Program in violation of Fla. Stat. § 893.055(3)(a). *See supra* I.A.

interest in balancing the factors of 21 U.S.C. 823(f).[18]

III. Sanction

Where, as here, the Government has established grounds to revoke Registrant's registration and deny Registrant's application, the burden shifts to the registrant to show why he can be entrusted with the responsibility carried by a registration. *Garret Howard Smith, M.D.,* 83 FR 18882, 18910 (2018). When a registrant has committed acts inconsistent with the public interest, he must both accept responsibility and demonstrate that he has undertaken corrective measures. *Holiday CVS, L.L.C., dba CVS Pharmacy Nos 219 and 5195,* 77 FR 62316, 62339 (2012) (internal quotations omitted). Trust is necessarily a fact-dependent determination based on individual circumstances; therefore, the Agency looks at factors such as the acceptance of responsibility, the credibility of that acceptance as it relates to the probability of repeat violations or behavior, the nature of the misconduct that forms the basis for sanction, and the Agency's interest in deterring similar acts. *See, e.g., Robert Wayne Locklear, M.D.,* 86 FR 33738, 33746 (2021).

Here, Registrant has failed to accept responsibility, arguing that he ''did nothing wrong intentionally or otherwise,'' and repeatedly insisting that J.L. was to blame for the improper prescriptions at issue because she was the ''criminal mind and the criminal muscle.'' RFAAX 16, at 2–9. Even if J.L. did improperly issue the prescriptions in question, Registrant failed to admit any fault for allowing her to improperly use his registration which, as its holder, Registrant would be ultimately responsible for. Further, Registrant did not address, let alone accept responsibility for, any of his numerous dispensing violations. As such, Registrant has failed to establish that he unequivocally accepts responsibility such that the Agency can entrust him with registration.

When a registrant fails to make the threshold showing of acceptance of responsibility, the Agency need not address the registrant's remedial measures. *Ajay S. Ahuja, M.D.,* 84 FR 5479, 5498 n.33 (2019); *Daniel A. Glick, D.D.S.,* 80 FR 74800, 74801, 74810 (2015). Even so, Registrant has not offered adequate remedial measures to assure the Agency that he can be entrusted with registration. *See Carol Hippenmeyer, M.D.,* 86 FR 33748, 33773 (2021). Here, although Registrant offered to ''keep [his] prescription pads locked under [his] control'' and to take other measures to ensure that nobody else would be able to use his registration, he did not offer a plan to address the numerous dispensing violations nor to ensure his future compliance with federal and state law regarding the dispensing of controlled substances. RFAAX 15, at 1–2; RFAAX 16, at 2.

In addition to acceptance of responsibility, the Agency looks to the egregiousness and extent of the misconduct, *Garrett Howard Smith, M.D.,* 83 FR at 18910 (collecting cases), and considers both specific and general deterrence when determining an appropriate sanction. *Daniel A. Glick, D.D.S.,* 80 FR at 74810. Here, the record contains substantial evidence that Registrant improperly issued at least 33 prescriptions for controlled substances to at least three different patients beneath the applicable standard of care and outside the usual course of professional practice and committed numerous violations of federal and state law. As such, revocation of Registrant's registration and denial of Registrant's application would deter Registrant and the general registrant community from the improper prescribing of controlled substances as well as from ignoring their obligations to comply with federal and state laws regarding the dispensing of controlled substances.

In sum, there is simply no evidence that Registrant's behavior is unlikely to recur in the future such that the Agency can entrust him with a CSA registration, and when considered with the scope of Registrant's misconduct as well as considerations of deterrence, the balance of factors weighs in favor of revocation and denial as sanctions. Accordingly, the Agency will order the revocation of Registrant's registration and the denial of Registrant's application.

Order

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(f) and 21 U.S.C. 824(a), I hereby revoke DEA Certificate of Registration No. BA2668183 issued to Sualeh Ashraf, M.D., deny the pending application for a DEA Certificate of Registration No. W21001036C submitted by Sualeh Ashraf, M.D., and deny any other pending applications submitted by Sualeh Ashraf, M.D in Florida. This Order is effective February 6, 2023.

Signing Authority

This document of the Drug Enforcement Administration was signed on December 27, 2022, by Administrator Anne Milgram. That document with the original signature and date is maintained by DEA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DEA Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of DEA. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Heather Achbach,

Federal Register Liaison Officer, Drug Enforcement Administration.

[FR Doc. 2023–00011 Filed 1–5–23; 8:45 am]

BILLING CODE 4410–09–P

[18] Regarding Registrant's claim in his ''Corrective Action Plan'' document that he did not issue the controlled substance prescriptions in question and that, rather, it was J.L. who improperly issued them to herself and her family members using Registrant's registration, the Agency has long held that a registrant is liable for the misuse of his registration by any person to whom he entrusts his registration. *See Kevin Dennis, M.D.,* 78 FR 52787, 52799 (2013) (collecting cases). During his interview with the Polk County Sheriff's Office conducted on June 12, 2018, Registrant admitted to leaving pre-signed prescription pads with J.L. for her to use his registration and stated that he and J.L. ''[had] the trust.'' RFAAX 12, at 15–18. Thus, even if it is true that J.L. was the one who misused Registrant's registration, Registrant bears responsibility for her misuse because he entrusted her with his registration. *See Brian Thomas Nichol, M.D.,* 83 FR 47352, 47363 (2018) (collecting cases); *see also supra* n.11.

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Valerie L. Augustus, M.D.; Decision and Order

On August 5, 2022, the Drug Enforcement Administration (hereinafter, DEA or Government) issued an Order to Show Cause (hereinafter, OSC) to Valerie L. Augustus, M.D. (hereinafter, Registrant). Request for Final Agency Action (hereinafter, RFAA), Exhibit (hereinafter, RFAAX) 1 (OSC), at 1, 3. The OSC proposed the revocation of Registrant's Certificate of Registration No. FA8056043 at the registered address of 2205 West Street, Germantown, TN 38138. *Id.* at 1. The OSC alleged that Registrant's registration should be revoked because Registrant is ''without authority to handle controlled substances in the State of Tennessee, the state in which [she is] registered with DEA.'' *Id.* at 2 (citing 21 U.S.C. 824(a)(3)).

The Agency makes the following findings of fact based on the uncontroverted evidence submitted by

the Government in its RFAA,[1] which was received on December 5, 2022.[2]

Findings of Fact

On July 21, 2021, the Tennessee Board of Medical Examiners issued a Final Order suspending Registrant's Tennessee medical license. RFAAX 2, at 5, 8, 11.

According to Tennessee's online records, of which the Agency takes official notice, Registrant's license is still suspended.[3] Tennessee Department of Health License Verification, *https://apps.health.tn.gov/Licensure/default.aspx* (last visited date of signature of this Order). Accordingly, the Agency finds that Registrant is not licensed to engage in the practice of medicine in Tennessee, the state in which she is registered with the DEA.

Discussion

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under section 823 of the Controlled Substances Act (hereinafter, CSA) ''upon a finding that the registrant . . . has had his State license or registration suspended . . . [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances.'' With respect to a practitioner, the DEA has also long held that the possession of authority to dispense controlled substances under the laws of the state in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner's registration. *See, e.g., James L. Hooper, M.D.,* 76 FR 71371 (2011), *pet. for rev. denied,* 481 F. App'x 826 (4th Cir. 2012); *Frederick Marsh Blanton, M.D.,* 43 FR 27616, 27617 (1978).[4]

According to Tennessee statute, ''dispense'' means ''to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.'' Tenn. Code Ann. § 39–17–402(7) (2022). Further, a ''practitioner'' means ''a physician . . . or other person licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this state.'' *Id.* at § 39–17–402(23)(A).

Here, the undisputed evidence in the record is that Registrant lacks authority to practice medicine in Tennessee. As discussed above, a physician must be a licensed practitioner to dispense a controlled substance in Tennessee. Thus, because Registrant lacks authority to practice medicine in Tennessee and, therefore, is not authorized to handle controlled substances in Tennessee, Registrant is not eligible to maintain a DEA registration. Accordingly, the Agency will order that Registrant's DEA registration be revoked.

Order

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(a), I hereby revoke DEA Certificate of Registration No. FA8056043 issued to Valerie L. Augustus, M.D. Further, pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(f), I hereby deny any pending applications of Valerie L. Augustus, M.D., to renew or modify this registration, as well as any other pending application of Valerie L. Augustus, M.D., for additional registration in Tennessee. This Order is effective February 6, 2023.

Signing Authority

This document of the Drug Enforcement Administration was signed on December 27, 2022, by Administrator Anne Milgram. That document with the original signature and date is maintained by DEA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DEA Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of DEA. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Heather Achbach,

Federal Register Liaison Officer, Drug Enforcement Administration.

[FR Doc. 2023–00009 Filed 1–5–23; 8:45 am]

BILLING CODE 4410–09–P

[1] The Government's RFAA is dated November 15, 2022. RFAA, at 5.

[2] Based on a Declaration from a DEA Diversion Investigator, the Agency finds that the Government's service of the OSC on Registrant was adequate. RFAAX 2, 2. Further, based on the Government's assertions in its RFAA, the Agency finds that more than thirty days have passed since Registrant was served with the OSC and Registrant has neither requested a hearing nor submitted a written statement or corrective action plan and therefore has waived any such rights. RFAA, at 2; *see also* 21 CFR 1301.43 and 21 U.S.C. 824(c)(2).

[3] Under the Administrative Procedure Act, an agency ''may take official notice of facts at any stage in a proceeding—even in the final decision.'' United States Department of Justice, Attorney General's Manual on the Administrative Procedure Act 80 (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979). Pursuant to 5 U.S.C. 556(e), ''[w]hen an agency decision rests on official notice of a material fact not appearing in the evidence in the record, a party is entitled, on timely request, to an opportunity to show the contrary.'' Accordingly, Registrant may dispute the Agency's finding by filing a properly supported motion for reconsideration of findings of fact within fifteen calendar days of the date of this Order. Any such motion and response shall be filed and served by email to the other party and to Office of the Administrator, Drug Enforcement Administration at *dea.addo.attorneys@dea.gov.*

[4] This rule derives from the text of two provisions of the CSA. First, Congress defined the term ''practitioner'' to mean ''a physician . . . or other person licensed, registered, or otherwise permitted, by . . . the jurisdiction in which he practices . . . to distribute, dispense, . . . [or] administer . . . a controlled substance in the course of professional practice.'' 21 U.S.C. 802(21). Second, in setting the requirements for obtaining a practitioner's registration, Congress directed that ''[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.'' 21 U.S.C. 823(f). Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the CSA, the DEA has held repeatedly that revocation of a practitioner's registration is the appropriate sanction whenever he is no longer authorized to dispense controlled substances under the laws of the state in which he practices. *See, e.g., James L. Hooper,* 76 FR at 71371–72; *Sheran Arden Yeates, M.D.,* 71 FR 39130, 39131 (2006); *Dominick A. Ricci, M.D.,* 58 FR 51104, 51105 (1993); *Bobby Watts, M.D.,* 53 FR 11919, 11920 (1988); *Frederick Marsh Blanton,* 43 FR at 27617.

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Sohail Mamdani, M.D.; Decision and Order

I. Introduction

On July 8, 2021, the Drug Enforcement Administration (DEA or Government) issued an Order to Show Cause (OSC) to Sohail Mamdani, M.D. (Respondent), of Los Banos, California. Request for Final Agency Action (RFAA) Exhibit No. (RFAAX) 13, at 1, 8.[1] The OSC proposes the revocation of Respondent's DEA Registration No. FM2871564, pursuant to 21 U.S.C. 824(a)(4) and 823(f). *Id.* at 1. The OSC more specifically alleges that Respondent wrote ''fraudulent prescriptions for controlled substances'' for himself using the names of ''multiple fictitious patients,'' his wife, and his father on his own prescription pad. *Id.* at 2. The OSC further alleges that he wrote ''fraudulent prescriptions for controlled substances'' for himself using his name and the names of fictitious

[1] Also referred to as ''Sohail Mamdani, D.O.'' RFAAX 1, at 1.

patients on the prescription pads of other doctors.[2] *Id.* at 2.

Respondent submitted a written waiver of hearing with a written statement and a proposed corrective action plan (PCAP). RFAAX 16 and RFAAX 14; *see also* RFAAX 17, at 1–2.[3] The Government denied Respondent's request to discontinue or defer administrative proceedings and stated its determination that ''there is no potential modification'' of his PCAP ''that could or would alter . . . [the] decision in this regard.'' RFAAX 15, at 1. Given the seriousness and extent of Respondent's founded violations, *infra* sections II.C., III.B., and IV., the Agency agrees.

Having thoroughly analyzed the record and applicable law, the Agency summarizes its findings and conclusions: (1) the Government presented a *prima facie* case that Respondent violated federal and California law, (2) Respondent attempted, but failed, to rebut the Government's *prima facie* case, and (3) substantial record evidence, including Respondent's own written statement and the sworn declaration of a DEA Diversion Investigator (DI), shows that the extent of Respondent's legal violations calls for the revocation of his registration. Accordingly, the Agency will revoke Respondent's registration. *Infra* Order.

II. Findings of Fact

A. The Government's Case

The Agency finds that the RFAA includes the sworn declaration of the DI and about 400 pages of prescription and prescription-related exhibits, among other documentary evidence, the content of which is mostly unrebutted. *Infra* section II.B. The DI Declaration, among other things, certifies exhibits submitted with the RFAA and describes a meeting of Respondent, Respondent's attorney, a DEA Group Supervisor, and the DI at the office of Respondent's attorney on July 31, 2020. RFAAX 2, at 1.

Based on the DI Declaration, the Agency finds substantial record evidence that the July 31, 2020 meeting took place as described in the DI Declaration and that Respondent, during the meeting, admitted to misconduct. *Id.* at 1–2. The Agency finds substantial record evidence that Respondent admitted that ''he fraudulently prescribed zolpidem tartrate (a Schedule IV controlled substance) to . . . [nine] fictitious patients to obtain controlled substances for personal use'' between 2015 and 2020, and that ''he fraudulently prescribed alprazolam (a Schedule IV controlled substance) to [two] fictitious patients'' between 2015 and 2020. *Id.* at 2. The Agency further finds substantial record evidence that Respondent admitted that ''he fraudulently issued prescriptions for zolpidem tartrate to his wife and . . . would use the medication for himself'' between 2016 and 2020, and that ''he fraudulently issued prescriptions for zolpidem tartrate to his father, but that his father never received the medication and that Respondent would consume the medication for his personal use'' between 2015 and 2020. *Id.* The Agency also finds that Respondent admitted that ''he issued prescriptions for his father and to his wife . . . without creating or maintaining medical records for any of those prescriptions, in violation of California law.''[4] *Id.* Additionally, the Agency finds substantial record evidence, based on the DI Declaration, that Respondent issued controlled substance prescriptions to himself and to two of his fictitious patients under the guise of three different doctors.[5] *Id.* at 2–3.

B. Respondent's Case

The Agency finds that the RFAA attaches Respondent's PCAP, Respondent's correspondence addressing his PCAP, his hearing waiver, and his written statement, and an email chain that includes an emailed version of Respondent's correspondence.[6] RFAAX 14; RFAAX 16; RFAAX 17. The Agency finds substantial record evidence that, in these documents, among other things, Respondent admits to writing controlled substance prescriptions ''to more than just [him]self in order to satisfy . . . [his] habits,'' does not ''attempt to make any . . . excuse for . . . [his] discreditable habit,'' acknowledges that he ''violate[d] the rules by which a physician should abide to maintain a DEA license,'' and ''take[s] full responsibility for the wrong . . . [he] ha[s] done.'' RFAAX 16, at 1; RFAAX 17, at 1–2.

The Agency finds that Respondent also states that he ''cannot accept responsibility for'' what he calls ''false additional accusations formally written by the DEA in their case'' against him. RFAAX 16, at 1; RFAAX 17, at 2. First, Respondent asserts that, ''When it first came to my attention that I was under investigation by the DEA, I acknowledged my wrong-doing, and not once from that point forward did I actually fill another wrongful prescription.'' RFAAX 16, at 1; RFAAX 17, at 2. Second, Respondent labels an ''utter fabrication'' that ''should be

[2] The OSC also alleges that Respondent ''filled prescriptions issued to . . . [him by his] father-in-law, despite knowing'' that his father-in-law's registration had previously been surrendered. OSC, at 2; *contra* RFAA, at 11 (''Given Respondent's status as a doctor and the highly regulated nature of controlled substance prescriptions, it is extremely unlikely Respondent was unaware of his father-in-law's surrendered registration at the time he accepted and filled those prescriptions.''); *see also infra* section II.C., n.9.

The OSC further alleges that Respondent lacked candor by assuring DEA investigators, on November 9, 2020, that he was no longer issuing controlled substance prescriptions to his wife ''as she had found a primary care physician,'' while continuing to do so. OSC, at 6–7. Given the seriousness and extent of Respondent's founded violations, as set out in this Decision, the Agency need not, and does not, adjudicate the OSC's lack of candor allegations.

The OSC also alleges violations of 21 U.S.C. 843(a)(2) and (3). OSC, at 3–6; *see also* RFAAX 6–12. Given the seriousness and extent of Respondent's violations of other federal legal requirements and his violations of California statute, the Agency need not, and does not, consider the OSC's 21 U.S.C. 843(a)(2) and (3) allegations.

[3] The Government argues that Respondent's hearing waiver with written statement was submitted untimely and improperly and, therefore, is inadmissible and ''should not be considered in adjudication . . . and issuance of a final order.'' RFAA, at 7. The Agency finds that on August 13, 2022, within 30 days of service of the OSC, Respondent sent an email to the Agency containing his hearing waiver with written statement; Respondent also mailed a copy of the hearing waiver with written statement which was received by the Agency on or about August 16, 2022. RFAAX 17, at 1; RFAAX 16, at 1. Because Respondent substantively complied with the OSC's instructions and because the Government did in fact receive the hearing waiver and written statement within 30 days, the Agency will consider Respondent's hearing waiver with written statement.

[4] The DI Declaration also states that during the July 31, 2020 meeting, DEA investigators told Respondent that he ''was violating the Controlled Substances Act'' each time he issued a fraudulent prescription to a fictitious patient or to his wife ''in order to obtain controlled substances for personal use.'' RFAAX 2, at 3.

[5] The DI Declaration includes substantial record evidence that each of the three doctors denied issuing these controlled substance prescriptions.

According to the DI Declaration, Dr. I.A. informed the DI that she worked with Respondent ''in the fall of 2019 where he shared a locked cabinet containing [her] prescription pads.'' RFAAX 2, at 3; *infra* Section II.B.

The DI Declaration states that pharmacy security footage shows Respondent picking up two of the allegedly illegal controlled substance prescriptions. The DI Declaration, however, neither attaches the security footage nor provides an evidentiary foundation for the assertion that it shows Respondent picking up the two prescriptions. Accordingly, this Decision gives no weight to security footage evidence.

[6] According to DEA regulations, a person who is entitled to a hearing may waive a hearing and submit a written statement regarding his position on the matters of fact and law involved. 21 CFR 1316.49. The written statement ''shall be considered in light of the lack of opportunity for cross-examination in determining the weight to be attached to matters of fact asserted therein.'' *Id.* Accordingly, in this matter, when the content of Respondent's unsworn submission conflicts with the content of a sworn submission, the Agency gives the sworn submission greater weight than Respondent's unsworn submission.

abolished from . . . [DEA's] report'' that he wrote a ''prescription'' for himself under the name of a ''colleague'' with whom he shared a ''locker room'' (Dr. I.A.), and asserts that ''[t]here is not a single prescription in question regarding this matter, that was wrongfully obtained under [his] colleague's name.'' [7] RFAAX 16, at 1; RFAAX 17, at 2.

Based on the Agency's thorough review of all of the record evidence, the Agency finds that neither of these claims of Respondent is credible or creditable. First, the Agency finds substantial record evidence that Respondent filled a wrongful controlled substance prescription after he became aware of DEA's investigation. As already stated, the Agency finds that Respondent and his attorney met with a DEA investigative team on July 31, 2020. RFAAX 2, at 1. The Agency finds substantial record evidence that, on August 29, 2020, Respondent filled a controlled substance (alprazolam 2 mg (#30)) prescription purportedly issued to him by Dr. Z.A. on August 26, 2020.[8] RFAAX 6, at 2–3. The Agency further finds substantial record evidence that, as of September 24, 2020, Dr. Z.A. did not know Respondent, had not accepted Respondent as a patient, and had not examined Respondent. RFAAX 6, at 1; RFAAX 2, at 2. The Agency finds substantial record evidence that Dr. Z.A. did not write the August 26, 2020 alprazolam 2 mg (#30) prescription for Respondent and that the signature on this alprazolam prescription is not Dr. Z.A.'s. RFAAX 6, at 1; RFAAX 2, at 2. The Agency finds substantial record evidence that Respondent wrongfully wrote and, subsequently, filled this controlled substance prescription. RFAAX 2, at 2; RFAAX 6, at 3. Accordingly, the Agency does not find credible, and does not credit, Respondent's claim that, when DEA's investigation of him ''first came'' to his attention, ''not once from that point forward did . . . [he] actually fill another wrongful prescription.'' RFAAX 16, at 1; RFAAX 17, at 2.

Second, the Agency finds substantial record evidence that Respondent wrongfully wrote prescriptions under Dr. I.A.'s name. As already stated, the Agency finds that Respondent worked with Dr. I.A. in the fall of 2019, and that the two shared a locked cabinet containing Dr. I.A.'s prescription pads. RFAAX 2, at 3. The Agency finds substantial record evidence that Dr. I.A.'s prescription pads also list Respondent's name and the names of three other doctors. RFAAX 8, at 1, 3, 5, 7. The Agency further finds substantial record evidence that Dr. I.A.'s name is clearly checked as the issuer at the top of four controlled substance prescriptions written for ''Farida Mamdani'' and ''Farooq Mamdani,'' two of Respondent's admittedly fictitious patients, and that the fill labels for these prescriptions state that Dr. I.A. is the prescriber. RFAAX 8, at 1–8. The Agency also finds substantial record evidence that Dr. I.A. denied having these two individuals as patients, issuing controlled substance prescriptions for them, and signing four controlled substance prescriptions for them. RFAAX 2, at 2, 3. Accordingly, the Agency concludes, based on substantial record evidence, that Respondent wrote these controlled substance prescriptions for his fictitious patients under the name of Dr. I.A. Therefore, the Agency does not find credible, and does not credit, Respondent's ''utter fabrication'' claim that ''[t]here is not a single prescription in question regarding this matter, that was wrongfully obtained under my colleague's [Dr. I.A.] name.'' RFAAX 16, at 2; RFAAX 17, at 2.

In sum, based on substantial record evidence, the Agency finds neither of Respondent's claims credible or creditable.

C. Allegation That Respondent Issued Controlled Substance Prescriptions Without a Legitimate Medical Purpose and Outside the Usual Course of Professional Practice

Having thoroughly analyzed all of the record evidence, including Respondent's submissions and admissions, the Agency finds substantial record evidence that Respondent wrote controlled substance prescriptions for himself using the names of multiple fictitious patients, of his wife, and of his father.[9] RFAAX 2, at 1–3; RFAAX 3–5.

[7] The Agency finds that Respondent also states that ''[t]he mere fact that . . . [my colleague's] name is printed on the same piece of paper should not translate to my unpermitted possession of her Rx pad and furthermore filling anything under her name. This multiple-practitioner sharing of a single Rx pad from a common location is a widely used practice in the medical field and I was surprised to see that the DEA was not only unaware of it but furthermore potentiated my 'guilt' by including these accusations that couldn't be further from the truth.'' RFAAX 16, at 2.

[8] The Agency notes that RFAAX 11, at 1 is a controlled substance prescription (zolpidem 10 mg (#30)) issued to ''Arif Hussain,'' one of Respondent's admittedly fictitious patients, by Respondent on November 5, 2020. RFAAX 11, at 1, in conjunction with RFAAX 2, at 2. The exhibit, though, does not show a ''fill'' date and, therefore, does not rebut Respondent's statement that he did not ''actually fill'' a wrongful controlled prescription after meeting with the DEA investigative team. RFAAX 16, at 1. Accordingly, this zolpidem 10 mg (#30) prescription is insufficient to rebut Respondent's ''actually fill[ed]'' denial.

[9] Respondent using his prescription pad to issue zolpidem tartrate prescriptions to Respondent's admittedly fictitious patients between 2015 and 2020: ''Arbazz Ali''—RFAAX 3, at 229–59; ''Arif Ali''—RFAAX 3, at 1–14; ''Ayaan Ali''—RFAAX 3, at 57–58, 65–66, 69–70, 75–76, 83–84, 93–94, 97–98, 103–04, 115–16, 123–24, 131–34; ''Salman Ali''—RFAAX 3, at 191–04; ''Arif Hussain''—RFAAX 3, at 15–28; ''Farida Mamdani''—RFAAX 3, at 139–42, 145–48, 153–54, 159–64; ''Farooq Mamdani''—RFAAX 3, at 167–68, 175–78; ''Sana Mamdani''—RFAAX 3, at 205–14; ''Ahmad Mameani''—RFAAX 3, at 215–18, 221–28.

Respondent using his prescription pad to issue alprazolam prescriptions to Respondent's admittedly fictitious patients between 2015 and 2020: ''Ayaan Ali''—RFAAX 3, at 29–30, 43–46, 49–56, 59–60, 63–64, 67–68, 71–74, 77–82, 85–92, 95–96, 99–100, 105–14, 117–22, 125–30, 135–38; ''Farida Mamdani''—RFAAX 3, at 143–44, 149–52, 155–58, 165–66; ''Farooq Mamdani''—RFAAX 3, at 171–74, 185–90.

Respondent using his prescription pad to issue zolpidem tartrate prescriptions to his wife between 2016 and 2020: RFAAX 4, at 273–74, 277–80, 285–86, 305–06, 311–12, 315–18, and 323–24.

Respondent using his prescription pad to issue alprazolam prescriptions to his wife between 2016 and 2020: RFAAX 4, at 269–72, 275–76, 281–84, 287–304, 307–10, 313–14, and 319–22.

Respondent using his prescription pad to issue zolpidem tartrate prescriptions to his father between 2015 and 2020: RFAAX 5, at 325–26, 333–34, 339–40, 345–48, 357–58, and 365–76.

Respondent using his prescription pad to issue alprazolam prescriptions to his father between 2015 and 2020: RFAAX 5, at 327–28, 331–32, 335–38, 341–44, 349–56, and 359–64.

The Agency finds that some of the record evidence is irrelevant or illegible, as follows:

RFAAX 3, at 31–40 are too illegible to constitute evidence;

RFAAX 3, at 41–42 is a controlled substance prescription written by Respondent's father-in-law to ''Ayaan Ali,'' one of Respondent's fictitious patients. The OSC does not include an allegation to which these pages apply and, therefore, the Agency finds that these pages are not relevant to this adjudication;

RFAAX 3, at 47–48 and 61–62 are internally inconsistent about the prescriber of this controlled substance prescription and, therefore, these pages do not evidence a violation by Respondent;

RFAAX 3, at 101–02 is a controlled substance prescription written on Respondent's pad but, according to the face of the exhibit, the prescription was written by a different doctor. Accordingly, these pages do not evidence a violation by Respondent;

The contents of RFAAX 3, at 169–70 and 179–80 do not definitively identify the prescriber. Accordingly, there is insufficient record evidence that Respondent issued these controlled substance prescriptions;

RFAAX 3, at 181–82 and 219–20 do not clearly show the prescriptions' dates. Accordingly, there is insufficient record evidence that these pages evidence a noticed violation by Respondent;

RFAAX 3, at 183–84 is a prescription for Augmentin, not a controlled substance, issued by Respondent. Accordingly, these pages do not evidence a cognizable violation;

RFAAX 5, at 329–30 does not include clear evidence of the year of the prescription's issuance. Accordingly, there is insufficient record evidence that these pages evidence a noticed violation by Respondent; and

RFAAX 10, at 397–98 and 417–18 are alprazolam and zolpidem tartrate prescriptions issued to

Continued

III. Discussion

A. The Controlled Substances Act (CSA) and Implementing Regulations

Under Section 304 of the CSA, ''[a] registration . . . to . . . distribute[ ] or dispense a controlled substance . . . may be suspended or revoked by the Attorney General upon a finding that the registrant . . . has committed such acts as would render his registration under section 823 of this title inconsistent with the public interest as determined by such section.'' 21 U.S.C. 824(a)(4). In the case of a ''practitioner,'' such as Respondent, Congress directed the Attorney General to consider five factors in making the public interest determination. 21 U.S.C. 823(f)(1–5). The five factors are considered in the disjunctive. *Robert A. Leslie, M.D.,* 68 FR 15227, 15230 (2003).

According to Agency decisions, the Agency ''may rely on any one or a combination of factors and may give each factor the weight [it] deems appropriate in determining whether'' to revoke a registration. *Id.; see also Jones Total Health Care Pharmacy, LLC* v. *Drug Enf't Admin.,* 881 F.3d 823, 830 (11th Cir. 2018) (citing *Akhtar-Zaidi* v. *Drug Enf't Admin.,* 841 F.3d 707, 711 (6th Cir. 2016); *MacKay* v. *Drug Enf't Admin.,* 664 F.3d 808, 816 (10th Cir. 2011); *Volkman* v. *U.S. Drug Enf't Admin.,* 567 F.3d 215, 222 (6th Cir. 2009); *Hoxie* v. *Drug Enf't Admin.,* 419 F.3d 477, 482 (6th Cir. 2005). Moreover, while the Agency is required to consider each of the factors, it ''need not make explicit findings as to each one.'' *MacKay,* 664 F.3d at 816 (quoting *Volkman,* 567 F.3d at 222); *see also Hoxie,* 419 F.3d at 482. ''In short, . . . the Agency is not required to mechanically count up the factors and determine how many favor the Government and how many favor the registrant. Rather, it is an inquiry which focuses on protecting the public interest; what matters is the seriousness of the registrant's misconduct.'' *Jayam Krishna-Iyer, M.D.,* 74 FR 459462 (2009). Accordingly, as the Tenth Circuit has recognized, findings under a single factor can support the revocation of a registration. *MacKay,* 664 F.3d at 821. In this matter, while all of the 21 U.S.C. 823(f) factors have been considered, the Government's evidence is confined to Factor Two, Respondent's experience in dispensing controlled substances, and Factor Four, Respondent's compliance with applicable laws related to controlled substances.[10] OSC, at 2; RFAA, at 8–10.

The CSA's implementing regulations state that a lawful controlled substance order or prescription is one that is ''issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice.'' 21 CFR 1306.04(a). As the OSC is addressed to Respondent at his registered address in California, the Agency also evaluates Respondent's actions for conformance with California law.[11] During the period alleged in the OSC for Respondent's violations, California law specifically stated that ''[n]o person shall issue a prescription that is false or fictitious in any respect.'' Cal. Health & Safety Code § 11157. It also stated that ''[n]o person shall prescribe, administer, or furnish a controlled substance for himself.'' Cal. Health & Safety Code § 11170.

B. Factors Two and Four and the Public Interest

As already noted, the record, including the content of Respondent's submissions, contains substantial evidence that Respondent issued controlled substance prescriptions to fictitious individuals and to himself. *Supra* section II. Section 11157 of the California Health & Safety Code prohibits the issuance of prescriptions that are ''false or fictitious in any respect,'' which Respondent admits he did for a plethora of fictitious individuals. Further, section 11170 of the California Health & Safety Code prohibits a person from writing prescriptions for himself, which Respondent also admits he did. Respondent, therefore, wrote controlled substance prescriptions without a legitimate medical purpose and outside the usual course of professional practice, thus violating federal law. 21 CFR 1306.04(a); *Gonzales* v. *Oregon,* 546 U.S. at 269–71.

Accordingly, the Agency finds that there is substantial record evidence of Respondent's violations of applicable law, that the Government presented a *prima facie* case, that Respondent failed to rebut the Government's *prima facie* case, and that Respondent's continued registration is inconsistent with the public interest, supporting the revocation of his registration. 21 U.S.C. 824(a)(4).

IV. Sanction

Where, as here, the Government has met its *prima facie* burden of showing that Respondent's continued registration is inconsistent with the public interest due to his issuance of controlled substance prescriptions without a legitimate medical purpose and outside the usual course of professional practice, the burden shifts to Respondent to show why he can be entrusted with a registration. *Garrett Howard Smith, M.D.,* 83 FR 18882 (2018). Moreover, as past performance is the best predictor of future performance, the Agency has required that a registrant who has committed acts inconsistent with the public interest must unequivocally accept responsibility for those acts and demonstrate that he will not engage in future misconduct. *Id.* In addition, a registrant's candor during the investigation and hearing has been an important factor in determining acceptance of responsibility and the appropriate sanction.[12] *Id.* In addition, the Agency has found that the egregiousness and extent of the misconduct are significant factors in determining the appropriate sanction. *Id.* The Agency has also considered the need to deter similar acts by the respondent and by the community of registrants. *Id.*

Regarding these matters, Respondent, according to his written statement, ''take[s] full responsibility for the wrong . . . [he has] done,'' but ''cannot accept responsibility for some of the false additional accusations formally written by the DEA in their case against . . . [him].'' RFAAX 16, at 1; RFAAX 17, at 2. As already discussed, based on the substantial record evidence establishing the validity of the accusations Respondent labeled ''false,'' the Agency finds neither of Respondent's claims credible or creditable. *Supra* section II.B. Accordingly, the record is clear that Respondent has not unequivocally accepted responsibility for the acts inconsistent with the public interest that he committed.[13]

Respondent on the pad of Dr. C.S. in 2020 and 2019. The Government argues that these pages support the allegation that Respondent filled controlled substance prescriptions issued to him by his father-in-law knowing that this father-in-law previously voluntarily surrendered his registration. This evidence does not support that allegation because the prescriber is not Respondent's father-in-law. Accordingly, the Agency finds insufficient record evidence that these controlled substance prescriptions constitute a violation by Respondent.

[10] Neither Respondent nor the Government purports to offer evidence relevant to Factors One, Three, or Five. The Agency considered Factors One, Three, and Five and finds that none of them is relevant to this adjudication.

[11] *See Gonzales* v. *Oregon,* 546 U.S. 243, 269–71 (2006); *see also* OSC, at 2–3.

[12] As already discussed, given the seriousness and extent of Respondent's founded violations, as set out in this Decision, the Agency need not, and does not, consider the OSC's lack of candor allegations. *Supra* section I, n.2.

[13] Regarding Respondent's PCAP and remedial measures, remedial measures are insufficient without an unequivocal acceptance of responsibility. *Brenton D. Wynn, M.D.,* 87 FR 24228, 24261 (2022); *see also Michael T. Harris, M.D.,* 87 FR 30276, 30278 (2022) (collecting Agency decisions).

In sum, the record supports the imposition of a sanction because Respondent does not unequivocally accept responsibility for the founded violations inconsistent with the public interest that he committed and because Respondent, therefore, has not convinced the Agency that he can be entrusted with a registration.

The interests of specific and general deterrence weigh in favor of revocation. *See, e.g., Garrett Howard Smith, M.D.,* 83 FR at 18910 (collecting cases) (''The egregiousness and extent of the misconduct are significant factors in determining the appropriate sanction.''). Given the seriousness and extent of Respondent's founded violations, a sanction less than revocation would send a message to the existing and prospective registrant community that compliance with the law is not a condition precedent to maintaining a registration.

Accordingly, the Agency shall order the sanction the Government requested, as contained in the Order below.

Order

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(a)(4) and 21 U.S.C. 823(f), I hereby revoke DEA Certificate of Registration No. FM2871564 issued to Sohail Mamdani, M.D. Further, pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(f), I hereby deny any pending application of Sohail Mamdani, M.D., to renew or modify this registration, as well as any other pending application of Sohail Mamdani, M.D., for registration in California. This Order is effective February 6, 2023.

Signing Authority

This document of the Drug Enforcement Administration was signed on December 27, 2022, by Administrator Anne Milgram. That document with the original signature and date is maintained by DEA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DEA Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of DEA. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Heather Achbach,

Federal Register Liaison Officer, Drug Enforcement Administration.

[FR Doc. 2023–00006 Filed 1–5–23; 8:45 am]

BILLING CODE 4410–09–P

POSTAL REGULATORY COMMISSION

[Docket Nos. CP2022–39; CP2022–42; MC2023–105 and CP2023–106; MC2023–106 and CP2023–107; MC2023–107 and CP2023–108; MC2023–108 and CP2023–109]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* January 9, 2023.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the Market Dominant or the Competitive product list, or the modification of an existing product currently appearing on the Market Dominant or the Competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern Market Dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3030, and 39 CFR part 3040, subpart B. For request(s) that the Postal Service states concern Competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3040, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* CP2022–39; *Filing Title:* USPS Notice of Amendment to Priority Mail Contract 734, Filed Under Seal; *Filing Acceptance Date:* December 28, 2022; *Filing Authority:* 39 CFR 3035.105; *Public Representative:* Katalin K. Clendenin; *Comments Due:* January 9, 2023.

2. *Docket No(s).:* CP2022–42; *Filing Title:* USPS Notice of Amendment to Priority Mail Express, Priority Mail & First-Class Package Service Contract 78, Filed Under Seal; *Filing Acceptance Date:* December 28, 2022; *Filing Authority:* 39 CFR 3035.105; *Public Representative:* Katalin K. Clendenin; *Comments Due:* January 9, 2023.

3. *Docket No(s).:* MC2023–105 and CP2023–106; *Filing Title:* USPS Request to Add Priority Mail, First-Class Package Service & Parcel Select Contract 5 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 28, 2022; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Kenneth R. Moeller; *Comments Due:* January 9, 2023.

4. *Docket No(s).:* MC2023–106 and CP2023–107; *Filing Title:* USPS Request to Add Priority Mail, First-Class Package Service & Parcel Select Contract 6 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 28, 2022; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Kenneth R. Moeller; *Comments Due:* January 9, 2023.

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

5. *Docket No(s).:* MC2023–107 and CP2023–108; *Filing Title:* USPS Request to Add Parcel Return Service Contract 19 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 28, 2022; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Christopher C. Mohr; *Comments Due:* January 9, 2023.

6. *Docket No(s).:* MC2023–108 and CP2023–109; *Filing Title:* USPS Request to Add Parcel Select Contract 58 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 28, 2022; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Kenneth R. Moeller; *Comments Due:* January 9, 2023.

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2023–00046 Filed 1–5–23; 8:45 am]

BILLING CODE 7710–FW–P

DEPARTMENT OF STATE

[Public Notice 11957]

Advisory Committee on Historical Diplomatic Documentation—Notice of Closed and Open Meetings for 2023

SUMMARY: The Advisory Committee on Historical Diplomatic Documentation will meet on March 13, June 12, September 11 (virtual), and December 11, 2023, in open session to discuss unclassified matters concerning declassification and transfer of Department of State records to the National Archives and Records Administration and the status of the *Foreign Relations* series. Open sessions will include briefings to the Committee from the Historian of the Department of State and the General Editor of the *Foreign Relations* series, followed by a Q&A discussion period; presentations on published *Foreign Relations* volumes by members of the Office of the Historian; and a chance for public participants to ask questions related to the status of the series or the opening of the Department's historical records to the public.

The Committee will meet in open session from 10 a.m. until noon in SA–4D Conference Room 109, Department of State, 2300 E Street NW, Washington DC, 20372 (Potomac Navy Hill Annex), on March 13, June 12, and December 11 with a virtual option. The Committee will meet virtually only on September 11. RSVP and requests for reasonable accommodation for each meeting should be sent as directed below:

- March 13, not later than March 6, 2023.
- June 12, not later than June 5, 2023.
- September 11, not later than September 4, 2023 (virtual only).
- December 11, not later than December 4, 2023.

Closed Sessions. The Committee's sessions in the afternoon of Monday, March 13, 2023; in the morning of Tuesday, March 14, 2023; in the afternoon of Monday, June 12, 2023; in the morning of Tuesday, June 13, 2023; in the afternoon of Monday, December 11, 2023; and in the morning of Tuesday, December 12, 2023, will be closed in accordance with Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463). The agenda calls for discussions of agency declassification decisions concerning the *Foreign Relations* series and other declassification issues. These are matters properly classified and not subject to public disclosure under 5 U.S.C. 552b(c)(1) and the public interest requires that such activities be withheld from disclosure.

RSVP Instructions. Prior notification and a valid government-issued photo ID (such as driver's license, passport, U.S. Government or military ID) are required for entrance into the Department of State building. Members of the public planning to attend the open meetings should RSVP, by the dates indicated above, to Julie Fort, Office of the Historian (202–955–0214). When responding, please provide date of birth, valid government-issued photo identification number and type (such as driver's license number/state, passport number/country, or U.S. Government ID number/agency or military ID number/branch), and relevant telephone numbers. If you cannot provide one of the specified forms of ID, please consult with Julie Fort for acceptable alternative forms of picture identification.

Personal data is requested pursuant to Public Law 99–399 (Omnibus Diplomatic Security and Antiterrorism Act of 1986), as amended; Public Law 107–56 (USA PATRIOT Act); and E.O. 13356. The purpose of the collection is to validate the identity of individuals who enter Department facilities. The data will be entered into the Visitor Access Control System (VACS–D) database. Please see the Security Records System of Records Notice (State-36) at *https://www.state.gov/wp-content/uploads/2019/05/Security-Records-STATE-36.pdf,* for additional information.

Questions concerning the meeting should be directed to Adam M. Howard, Executive Secretary, Advisory Committee on Historical Diplomatic Documentation, Department of State, Office of the Historian, Washington, DC 20372, telephone (202) 955–0214, (email *history@state.gov).*

Note that requests for reasonable accommodation received after the dates indicated in this notice will be considered but might not be possible to fulfill.

Adam M. Howard,

Executive Secretary, Advisory Committee on Historical Diplomatic Documentation, Department of State.

[FR Doc. 2023–00047 Filed 1–5–23; 8:45 am]

BILLING CODE 4710–31–P

DEPARTMENT OF STATE

[Delegation of Authority No. 513–1]

Delegation of the Authorities of the Secretary to Under Secretary John R. Bass

1. By virtue of the authority vested in the Secretary of State by the laws of the United States, including 22 U.S.C. 2651a, I hereby delegate to Under Secretary John R. Bass, to the extent authorized by law, all authorities and functions vested in the Secretary of State or the head of agency by any act, order, determination, delegation of authority, regulation, or executive order, now or hereafter issued. This Delegation includes all authorities and functions that have been or may be delegated or re-delegated to other Department officials but does not repeal delegations to such officials. The Secretary or Deputy Secretary may exercise any such authority or function.

2. I further delegate to Under Secretary Bass supervisory authority over individuals who report to the Deputy Secretary of State for Management and Resources.

3. This Delegation of Authority does not rescind or modify any other delegation of authority currently in force, and will expire upon the entry upon duty of an appointed Deputy Secretary of State for Management and Resources.

4. This memorandum shall be published in the **Federal Register**.

Dated: December 21, 2022.

Antony J. Blinken,

Secretary of State, Department of State.

[FR Doc. 2023–00095 Filed 1–5–23; 8:45 am]

BILLING CODE 4710–10–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36655]

Genesee & Wyoming Inc.—Corporate Family Transaction Exemption

Genesee & Wyoming Inc. (GWI), a noncarrier holding company, filed a verified notice of exemption under 49 CFR 1180.2(d)(3) to exempt from the provisions of 49 U.S.C. 11323 certain transactions within its corporate family.[1] According to GWI, it directly and indirectly controls 103 railroads across the United States, including the entities involved in the subject transactions.[2] GWI proposes to convert Chattahoochee Bay Railroad, Inc., a Delaware corporation, into Chattahoochee Bay Railroad LLC (CHAT LLC), a Delaware limited liability company. GWI will then contribute its membership interests in CHAT LLC down its organizational structure to GWI subsidiary Rail Partners, L.P., which also controls the Bay Line Railroad, L.L.C. (BAYL). This transaction will result in GWI indirectly controlling CHAT LLC. CHAT LLC will then be merged with and into BAYL, with BAYL remaining as the surviving Class III rail carrier. GWI also proposes to merge Fordyce and Princeton Railroad Company with and into Arkansas Louisiana & Mississippi Railroad Company (ALM), with ALM remaining as the surviving Class III rail carrier.

GWI states that the transactions will reduce the number of legal entities within its corporate family, resulting in improved efficiencies by reducing overhead and duplication of accounting and IT services and potentially reducing its tax burden while retaining the same assets to serve customers.

Unless stayed, the exemption will be effective on January 20, 2023 (30 days after the verified notice was filed). GWI states that it intends to consummate the transactions on or about February 1, 2023. The verified notice states that the transactions will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family. Therefore, the transactions are exempt from the prior approval requirements of 49 U.S.C. 11323. *See* 49 CFR 1180.2(d)(3).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Because GWI controls four Class II carriers and 99 Class III carriers, any employees adversely affected by these transactions will be protected by the conditions required by 49 U.S.C. 11326(a) and set forth in *New York Dock Railway—Control—Brooklyn Eastern District Terminal,* 360 I.C.C. 60 (1979).

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than January 13, 2023 (at least seven days before the exemption becomes effective).

All pleadings referring to Docket No. FD 36655 must be filed with the Surface Transportation Board either via e-filing or in writing addressed to 395 E Street, SW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Eric M. Hocky, Clark Hill PLC, Two Commerce Square, 2001 Market Street, Suite 2620, Philadelphia, PA 19103.

According to GWI, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and historic reporting requirements under 49 CFR 1105.8(b).

Board decisions and notices are available at *www.stb.gov.*

Decided: January 3, 2023.

By the Board, Mai T. Dinh, Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2023–00056 Filed 1–5–23; 8:45 am]

BILLING CODE 4915–01–P

[1] GWI filed a supplement on December 29, 2022.

[2] This tally does not include GWI's wholly owned subsidiary, Pittsburg & Shawmut Railroad, LLC d/b/a Berkshire & Eastern Railroad, which has received authority from the Board to operate Pan Am Southern LLC. *See Pittsburg & Shawmut R.R.—Operation Exemption—Pan Am S. LLC,* FD 36472 (Sub-No. 5) (STB served Apr. 14, 2022). GWI states that the operation exemption transaction has not yet been consummated.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. 2022–0176]

Agency Information Collection Activities: Requests for Comments; Clearance of Renewal Approval of Information Collection

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew Information Collection 2120–0768. The purpose of this notice is to allow 60 days for public comment. The FAA proposes collecting information related to requests made under 14 CFR part 107 to operate small Unmanned Aircraft Systems (UAS) in controlled airspace. FAA will use the collected information to make determinations whether to authorize or deny the requested operation of UAS in controlled airspace. The proposed information collection is necessary to issue such authorizations or denials consistent with the FAA's mandate to ensure safe and efficient use of national airspace.

DATES: Written comments should be submitted by March 7, 2023.

ADDRESSES: Please send written comments:

By Electronic Docket: www.regulations.gov (Enter docket number into search field).

By mail: Atlantic City International Airport, FAA William J Hughes Technical Center, Bldg 316, Column I, Desk 4S409, Atlantic City, NJ 08405.

By fax: 202–493–2251.

FOR FURTHER INFORMATION CONTACT: Victoria Gallagher by email at: *Victoria.Gallagher@faa.gov*; phone: 609–485–5127.

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

OMB Control Number: 2120–0768.

Title: Part 107 Authorizations and Waivers under 14 CFR part 107.

Form Numbers: There are no forms associated with this collection.

Type of Review: Renewal of existing Information Collection.

Background: There has been an increased number of operations of small Unmanned Aircraft Systems in the National Air Space (NAS) in recent years and regulations and statutes have been enacted to establish the use of small UAS in the NAS. Included in these is 14 CFR part 107. Section 107.41 states that ''no person may operate a small unmanned aircraft in Class B, Class C, or Class D airspace or within

the lateral boundaries of the surface areas of Class E airspace designated for an airport unless that person has prior authorization from Air Traffic Control (ATC).'' Such authorization may be obtained in the form of either an airspace authorization issued by the FAA or a waiver of the authorization requirements of 14 CFR Section 107.41 (known as an airspace waiver).

In order to process authorization and airspace waiver requests, the FAA requires the operator's name, the operator's contact information, and information related to the date, place, and time of the requested small UAS operation. This information is necessary for the FAA to meet its statutory mandate of maintaining a safe and efficient national airspace. See 49 U.S.C. 40103, 44701, and 44807. The FAA will use the requested information to determine if the proposed UAS operation can be conducted safely.

The FAA proposes to use the Low Altitude Authorization and Notification Capability (LAANC) and a web portal to process authorization requests from the public to conduct part 107 flight operations pursuant to Section 107.41. The FAA also proposes to use the web portal to process requests from the public to conduct part 107 flight operations that requires an airspace waiver.

Respondents: Small UAS operators seeking to conduct flight operations under 14 CFR part 107 within controlled airspace or flight operations that require waiver from the provisions of 14 CFR Section 107.41. Between 2023–2026, the FAA estimates that it will receive a total of 1,477,965 requests for airspace authorizations and 0 requests for airspace waivers.

Frequency: The requested information will need to be provided each time a respondent requests an airspace authorization to operate a small UAS under 14 CFR part 107 in controlled airspace and each time a respondent requests a waiver from the provisions of 14 CFR Section 107.41 to operate a small UAS in controlled airspace.

Estimated Average Burden per Response: The FAA estimates the respondents using LAANC will take five (5) minutes per airspace authorization request and those using the web portal will take thirty (30) minutes per request. For those making airspace waiver requests through the web portal, the FAA estimates it takes 30 minutes per request.

Estimated Total Annual Burden: For airspace authorizations, the FAA estimates that the average annual burden will be 61,582 burden hours. This includes 36,949 burden hours for 443,389 LAANC respondents and 24,633 burden hours for 49,266 web portal respondents.

Issued in Washington, DC.

Victoria Gallagher,

UAS LAANC Program Manager, AJM–337.

[FR Doc. 2023–00040 Filed 1–5–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2022–0236]

Agency Information Collection Activities; Renewal of a Currently Approved Information Collection: Hazardous Material Safety Permits

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

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FMCSA announces its plan to submit the Information Collection Request (ICR) described below to the Office of Management and Budget (OMB) for its review and approval and invites public comment. FMCSA requests approval to renew an existing ICR titled, ''Hazardous Materials Safety Permits.'' This ICR requires companies holding safety permits to develop communications plans that allow for the periodic tracking of the shipments. A record of the communications that includes the time of the call and location of the shipment may be kept by either the driver (*e.g.,* recorded in the log book) or the company. These records must be kept, either physically or electronically, for at least 6 months at the company's principal place of business or readily available to the employees at the company's principal place of business. This ICR is being renewed only to the extent that the number of motor carriers with an active Hazardous Materials (HM) Safety Permit has increased from 987 to 1065.

DATES: Comments on this notice must be received on or before March 7, 2023.

ADDRESSES: You may submit comments identified by Federal Docket Management System (FDMS) Docket Number FMCSA–2022–0236 using any of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail:* Dockets Operations; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, Washington, DC, 20590–0001 between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

Instructions: All submissions must include the Agency name and docket number. For detailed instructions on submitting comments, see the Public Participation heading below. Note that all comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments received, go to *https://www.regulations.gov,* and follow the online instructions for accessing the docket, or go to the street address listed above.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

Public Participation: The Federal eRulemaking Portal is available 24 hours each day, 365 days each year. You can obtain electronic submission and retrieval help and guidelines under the ''FAQ'' section of the Federal eRulemaking Portal website. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard, or print the acknowledgement page that appears after submitting comments online. Comments received after the comment closing date will be included in the docket and will be considered to the extent practicable.

FOR FURTHER INFORMATION CONTACT: Ms. Melissa Williams, Office of Safety, Hazardous Materials Division, DOT, FMCSA, West Building 6th Floor, 1200 New Jersey Avenue SE, Washington, DC 20590–0001; 202–366–4163; *melissa.williams@dot.gov.*

SUPPLEMENTARY INFORMATION:

Background: The Secretary of Transportation is responsible for implementing regulations to issue safety permits for transporting certain HM in accordance with 49 U.S.C. 5101 *et seq.*

The HM Safety Permit regulations (49 CFR part 385, subpart E) require initial or first time HM Safety Permit carriers to file the Unified Registration System (URS), Form MCSA–1. Currently, update and renewal applications must be filed with FMCSA using the ''Combined Motor Carrier Identification Report and HM Permit Application'' (Form MCS–150B). The HM Safety Permit regulations also require carriers to have a security program. As part of the HM Safety Permit regulations, carriers are required to develop and maintain route plans so that law enforcement officials can verify the correct location of the HM shipment. FMCSA requires companies holding permits to develop a communications plan that allows for the periodic tracking of the shipment. This information covers the record of communications that includes the time of the call and location of the shipment. The records may be kept by either the driver (*e.g.,* recorded in the log book) or the company. These records must be kept, either physically or electronically, for at least 6 months at the company's principal place of business or be readily available to employees at the company's principal place of business.

Title: Hazardous Materials Safety Permits.

OMB Control Number: 2126–0030.

Type of Request: Renewal of a currently approved information collection.

Respondents: Motor carriers subject to the Hazardous Materials Safety Permit requirements in 49 CFR part 385, subpart E.

Estimated Number of Respondents: 1,065.

Estimated Time per Response: 5 minutes. The communication between motor carriers and their drivers must take place at least two times per day. It is estimated that it will take 5 minutes to maintain a daily communication record for each driver.

Expiration Date: September 30, 2023.

Frequency of Response: On occasion.

Estimated Total Annual Burden: 750,000 hours [9 million trips × 5 minutes per record ÷ 60 minutes per hour = 750,000, rounded to the nearest thousand].

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) whether the proposed collection is necessary for the performance of FMCSA's functions; (2) the accuracy of the estimated burden; (3) ways for FMCSA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the collected information. The Agency will summarize or include your comments in the request for OMB's clearance of this ICR.

Issued under the authority of 49 CFR 1.87.

Thomas P. Keane,

Associate Administrator, Office of Research and Registration.

[FR Doc. 2023–00016 Filed 1–5–23; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Information Collection Renewal; Submission for OMB Review; Appraisals for Higher-Priced Mortgage Loans

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 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 renewal of its information collection titled, ''Appraisals for Higher-Priced Mortgage Loans.'' The OCC also is giving notice that it has sent the collection to OMB for review.

DATES: Comments must be submitted on or before February 6, 2023.

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, 1557–0313, Office of the Comptroller of the Currency, 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) 293–4835.

Instructions: You must include ''OCC'' as the agency name and ''1557–0313'' 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.

Written comments and recommendations for the proposed information collection should also be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* You can find this information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

You may review comments and other related materials that pertain to this information collection following the close of the 30-day comment period for this notice 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'' from the drop-down menu. From the ''Currently under Review'' drop-down menu, select ''Department of Treasury'' and then click ''submit.'' This information collection can be located by searching by OMB control number ''1557–0313'' or ''Appraisals for Higher-Priced Mortgage Loans.'' 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, (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 *et seq.*), Federal agencies must obtain approval from the 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. The OCC asks the OMB to extend its approval of the collection in this notice.

Title: Appraisals for Higher-Priced Mortgage Loans.

Abstract: This information collection relates to section 1471 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, which added a new section 129H to the Truth in Lending Act (TILA) establishing special appraisal requirements for ''higher-risk mortgages.'' For certain mortgages with an annual percentage rate that exceeds the average prime offer rate by a specified percentage, creditors must obtain an appraisal or appraisals meeting certain specified standards, provide applicants with a notification regarding the use of the appraisals, and give applicants a copy of the written appraisals used to evaluate real estate collateral. The statute permits the OCC to issue a rule to include exemptions from these requirements.

The information collection requirements are found in 12 CFR 34.203(c)(1), (c)(2), (d), (e) and (f). This information is required to protect consumers and promote the safety and soundness of creditors making higher-priced mortgage loans (HPMLs) subject to 12 CFR part 34, subpart G. This information is used by creditors to evaluate real estate collateral securing HPMLs subject to 12 CFR 1026.35(c) and by consumers entering these transactions. The collections of information are mandatory for creditors making HPMLs subject to 12 CFR part 34, subpart G.

Under 12 CFR 34.203(e) and (f), a creditor must, no later than the third business day after the creditor receives a consumer's application for an HPML, provide the consumer with a disclosure that informs the consumer that the creditor may order an appraisal to determine the value of the property and charge the consumer for that appraisal, that the creditor will provide the consumer with a copy of any appraisal, and that the consumer may choose to have an additional appraisal conducted at the expense of the consumer. If a loan is an HPML subject to 12 CFR 34.203(c), then, under 12 CFR 34.203(c)(1) and (2), the creditor is required to obtain a written appraisal prepared by a certified or licensed appraiser who conducts a physical visit of the interior of the property that will secure the transaction (Written Appraisal) and provide a copy of the Written Appraisal to the consumer. Under 12 CFR 34.203(d)(1), a creditor is required to obtain an additional appraisal (Additional Written Appraisal) for an HPML that is subject to 12 CFR part 34, subpart G if: (1) the seller acquired the property securing the loan 90 or fewer days prior to the date of the consumer's agreement to acquire the property and the price in the consumer's agreement to acquire the property exceeds the seller's acquisition price by more than 10 percent or (2) the seller acquired the property securing the loan 91 to 180 days prior to the date of the consumer's agreement to acquire the property and the price in the consumer's agreement to acquire the property exceeds the seller's acquisition price by more than 20 percent.

Under 12 CFR 34.203(d)(3) and (4), the Additional Written Appraisal must meet the requirements described in 12 CFR 34.203(c)(1) and also include an analysis of: (1) the difference between the price at which the seller acquired the property and the price the consumer is obligated to pay to acquire the property; (2) changes in market conditions between the date the seller acquired the property and the date of the consumer's agreement to acquire the property; and (3) any improvements made to the property between the date the seller acquired the property and the date of the consumer's agreement to acquire the property. Under 12 CFR 34.203(f), a creditor is required to provide the consumer with a copy of any Additional Written Appraisal.

Affected Public: Businesses or other for-profit.

Type of Submission: Renewal without change.

Burden Estimates:

Estimated Number of Respondents: 1,134.

Estimated Total Annual Burden: 292 hours.

Frequency of Response: On occasion.

Comments: On September 8, 2022, the OCC issued a notice for 60 days of comment concerning the collection, 87 FR 55086. No comments were received. Comments continue to be solicited 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 operation, maintenance, and purchase of services to provide information.

Theodore J. Dowd,

Deputy Chief Counsel, Office of the Comptroller of the Currency.

[FR Doc. 2023–00065 Filed 1–5–23; 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; Submission for OMB Review; Financial Management Policies—Interest Rate Risk

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 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 renewal of its information collection titled, ''Financial Management Policies—Interest Rate Risk,'' which is applicable only to Federal savings associations. The OCC also is giving notice that it has sent the collection to OMB for review.

DATES: Comments must be submitted on or before February 6, 2023.

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, 1557–0299, Office of the Comptroller of the Currency, 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 ''1557–0299'' 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.

Written comments and recommendations for the proposed information collection should also be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* You can find this information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

On August 12, 2022, the OCC published a 60-day notice for this information collection, (87 FR 49925). No comments were received. You may review comments and other related materials that pertain to this information collection following the close of the 30-day comment period for this notice 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'' from the drop-down menu. From the ''Currently under Review'' drop-down menu, select ''Department of Treasury'' and then click ''submit.'' This information collection can be located by searching by OMB control number ''1557–0299'' or ''Financial Management Policies—Interest Rate Risk.'' 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 *et seq.*), Federal agencies must obtain approval from OMB for each collection of information that they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, and/or provide information to a third party. The OCC asks that OMB extend its approval of the collection in this notice.

Title: Financial Management Policies—Interest Rate Risk.

OMB Control No.: 1557–0299.

Type of Review: Regular.

Affected Public: Businesses or other for-profit.

Frequency of Response: On occasion.

Burden Estimate:

Estimated Number of Respondents: 263.

Estimated Annual Burden: 10,520.

Abstract: This information collection covers the recordkeeping burden for Federal savings associations to maintain data in accordance with OCC's regulation on interest rate risk procedures, 12 CFR 163.176. The purpose of the regulation is to ensure that Federal savings associations appropriately manage their exposure to interest rate risk. To comply with this reporting requirement, institutions need to maintain sufficient records to document how their interest rate risk exposure is monitored and managed internally.

On August 12, 2022, the OCC published a 60-day notice with request for comment for this information collection (87 FR 49925). No comments were received. Comments continue to be solicited on:

(a) Whether the collections of information are necessary for the proper performance of the OCC's functions, including whether the information has practical utility;

(b) The accuracy of the OCC's estimates of the burden of the information collections, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of information collections 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. 2023–00050 Filed 1–5–23; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF VETERANS AFFAIRS

Veterans and Survivors Pension and Parents' Dependency and Indemnity Compensation Cost of Living Adjustments Effective December 1, 2022

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: As required by law, VA is hereby giving notice of Cost-of-Living Adjustments (COLA) in certain benefit rates and income limitations. These COLAs affect the Pension and Parents' Dependency and Indemnity Compensation (DIC) programs. The rate of the adjustment is tied to the increase in Social Security benefits effective December 1, 2022, as announced by the Social Security Administration (SSA). SSA has announced an increase of 8.7%.

DATES: The Cost-of-Living Adjustments became effective December 1, 2022, as required by 38 U.S.C. 5312.

FOR FURTHER INFORMATION CONTACT: Eric Baltimore, Program Analyst, Pension and Fiduciary Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, 202–632–8863. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Under the provisions of 38 U.S.C. 5312 and section 306 of Public Law 95–588, VA is required to increase the benefit rates and income limitations in the Pension and Parents' DIC programs by the same percentage, and effective the same date, as increases in the benefit amounts payable under Title II of the Social Security Act. VA is required to publish the increased rates and income limitations in the **Federal Register**.

SSA announced an 8.7% COLA increase in Social Security benefits effective December 1, 2022. Therefore, applying the same percentage and rounding in accordance with 38 CFR 3.29, the following increased rates and income limitations for the VA Pension and Parents' DIC programs became effective December 1, 2022:

Pension

A. Maximum Annual Rates—Veterans

(1) Veterans permanently and totally disabled (38 U.S.C. 1521):

Veteran with no dependents, $16,037.

Veteran with one dependent, $21,001.

For each additional dependent, $2,743.

(2) Veterans in need of aid and attendance (38 U.S.C. 1521):

Veteran with no dependents, $26,752.

Veteran with one dependent, $31,714.
For each additional dependent, $2,743.
(3) Veterans who are housebound (38 U.S.C. 1521):
Veteran with no dependents, $19,598.
Veteran with one dependent, $24,562.
For each additional dependent, $2,743.
(4) Two Veterans married to one another, combined rates (38 U.S.C. 1521):
Neither Veteran in need of aid and attendance or housebound, $21,001.
Either Veteran in need of aid and attendance, $31,714.
Both Veterans in need of aid and attendance, $42,433.
Either Veteran housebound, $24,562.
Both Veterans housebound, $28,121.
One Veteran housebound and one Veteran in need of aid and attendance, $35,266.
For each dependent child, $2,743.
(5) Net worth limit under 38 CFR 3.274(a):
For purposes of entitlement to VA pension, the net worth limit effective December 1, 2022, is $150,538.
(6) Monthly Penalty Rate under 38 CFR 3.276(e)(1):
The monthly penalty rate is $2,642.
Mexican border period and World War I Veterans: The applicable maximum annual rate payable to a Mexican border period or World War I Veteran under this table shall be the applicable rate under paragraph (1)–(4), increased by $3,645. (38 U.S.C. 1521(g)).

B. Maximum Annual Rates—Survivor Beneficiaries

(1) Surviving spouse alone and with a child or children of the deceased Veteran in custody of the surviving spouse (38 U.S.C. 1541):
Surviving spouse alone, $10,757.
Surviving spouse and one child in his or her custody, $14,078.
For each additional child in his or her custody, $2,743.
(2) Surviving spouses in need of aid and attendance (38 U.S.C. 1541, 1536):
Surviving spouse alone, $17,192.
Surviving spouse with one child in custody, $20,509.
Surviving Spouse of Spanish-American War Veteran alone, $17,888.
Surviving Spouse of Spanish-American War Veteran with one child in custody, $21,130.
For each additional child in his or her custody, $2,743.
(3) Surviving spouses who are housebound (38 U.S.C. 1541):
Surviving spouse alone, $13,147.
Surviving spouse and one child in his or her custody, $16,462.
For each additional child in his or her custody, $2,743.
(4) Surviving child alone (38 U.S.C. 1542), $2,743.
(5) Net worth limit under 38 CFR 3.274(a):
For purposes of entitlement to VA pension, the net worth limit effective December 1, 2022, is $150,538.
(6) Monthly Penalty Rate under 38 CFR 3.276(e)(1):
The monthly penalty rate effective December 1, 2022, is $2,642.
Reduction for income: The rate payable is the applicable maximum rate minus the countable annual income of the eligible person. (38 U.S.C. 1521, 1541 and 1542).

C. Section 306 Pension Income Limitations

(1) Veteran or surviving spouse with no dependents, $18,240 (Pub. L. 95–588, section 306(a)).
(2) Veteran in need of aid and attendance with no dependents, $18,897 (38 U.S.C. 1521(d) as in effect on December 31, 1978).
(3) Veteran or surviving spouse with one or more dependents, $24,518 (Pub. L. 95–588, section 306(a)).
(4) Veteran in need of aid and attendance with one or more dependents, $25,172 (38 U.S.C. 1521(d) as in effect on December 31, 1978).
(5) Child (no entitled Veteran or surviving spouse), $14,915 (Pub. L. 95–588, section 306(a)).
(6) Spouse income exclusion (38 CFR 3.262), $5,826 (Pub. L. 95–588, section 306(a)(2)(B)).

D. Old-Law Pension Income Limitations

(1) Veteran or surviving spouse without dependents or an entitled child, $15,973 (Pub. L. 95–588, section 306(b)).
(2) Veteran or surviving spouse with one or more dependents, $23,020 (Pub. L. 95–588, section 306(b)).

Parents' DIC

A. DIC shall be paid monthly to parents of a deceased Veteran in the following amounts (38 U.S.C. 1315):
(1) *One parent (38 U.S.C. 1315(b)):* If there is only one parent, the monthly rate of DIC paid to such parent shall be $774, reduced on the basis of the parent's annual income according to the following formula:
(a) For each $1 of annual income which is more than $0.00 but not more than $800, the $774 monthly rate shall not be reduced.
(b) For each $1 of annual income which is more than $800 but not more than $10,413, the monthly rate shall be reduced by $0.08.
(c) For each $1 of annual income which is more than $10,413, the monthly rate will not be reduced.
(d) No Parents' DIC is payable under this table if annual income exceeds $18,240.
(2) *One parent who has remarried:* If there is only one parent and the parent has remarried and is living with the parent's spouse, DIC shall be paid under 38 U.S.C. 1315(b) or under 38 U.S.C. 1315(d), whichever shall result in the greater benefit being paid to the Veteran's parent. In the case of remarriage, the total combined annual income of the parent and the parent's spouse shall be counted in determining the monthly rate of DIC.
(3) *One of two parents not living with spouse (38 U.S.C. 1315(c)):* The rates below apply to (1) two parents who are not living together, or (2) an unmarried parent when both parents are living and the other parent has remarried. The monthly rate of DIC paid to each such parent shall be $561 reduced on the basis of each parent's annual income, according to the following formula:
(a) For each $1 of annual income which is more than $0 but not more than $800, the $561 monthly rate shall not be reduced.
(b) For each $1 of annual income which is more than $800 but not more than $7,750, the monthly rate shall be reduced by $0.08.
(c) For each $1 of annual income which is more than $7,750, the monthly rate shall not be reduced.
(d) No Parents' DIC is payable under this table if annual income exceeds $18,240.
(4) *One of two parents living with spouse or other parent (38 U.S.C. 1315(d)):* The rates below apply to each parent living with another parent; and each remarried parent, when both parents are alive. The monthly rate of DIC paid to such parents will be $529 reduced on the basis of the combined annual income of the two parents living together or the remarried parent or parents and spouse or spouses, as computed under the following formula:
(a) For each $1 of annual income which is more than $0 but not more than $1,000, the $529 monthly rate shall not be reduced.
(b) For each $1 of annual income which is more than $1,000 but not more than $1,100, the monthly rate shall be reduced by $0.03.
(c) For each $1 of annual income which is more than $1,100 but not more than $1,200, the monthly rate shall be reduced by $0.04.
(d) For each $1 of annual income which is more than $1,200 but not more than $1,300, the monthly rate shall be reduced by $0.05.
(e) For each $1 of annual income which is more than $1,300 but not more

than $1,600, the monthly rate shall be reduced by $0.06.

(f) For each $1 of annual income which is more than $1,600 but not more than $1,800, the monthly rate shall be reduced by $0.07.

(g) For each $1 of annual income which is more than $1,800 but not more than $7,775, the monthly rate shall be reduced by $0.08.

(h) For each $1 of annual income which is more than $7,775, the monthly rate shall not be reduced.

B. No Parents' DIC is payable if the annual income exceeds $24,518.

C. These rates are also applicable in the case of one surviving parent who has remarried, computed on the basis of the combined income of the parent and spouse, if this would be a greater benefit than that specified in the rates for 38 U.S.C. 1315(b) for one parent.

D. *Aid and attendance:* The monthly rate of DIC payable to a parent per the guidelines above shall be increased by $420 if such parent is (1) a patient in a nursing home, or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person.

E. *Minimum rate:* The monthly rate of DIC payable to any parent shall not be less than $5.

Signing Authority

Denis McDonough, Secretary of Veterans Affairs, approved this document on December 30, 2022, and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

Luvenia Potts,

Regulation Development Coordinator, Office of Regulation Policy & Management, Office of General Counsel, Department of Veterans Affairs.

[FR Doc. 2023–00070 Filed 1–5–23; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 88 Friday,
No. 4 January 6, 2023

Part II

Department of Transportation

Federal Aviation Administration
Office of the Secretary
Great Lakes Saint Lawrence Seaway Development Corporation
Maritime Administration
Pipeline and Hazardous Materials Safety Administration
Federal Railroad Administration
Federal Motor Carrier Safety Administration
National Highway Traffic Safety Administration

14 CFR Parts 13, 383, and 406
33 CFR Part 401
46 CFR Parts 221, 307, 340, et al.
49 CFR Parts 107, 171, 190, et al.
Revisions to Civil Penalty Amounts; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 13 and 406

Office of the Secretary

14 CFR Part 383

Great Lakes Saint Lawrence Seaway Development Corporation

33 CFR Part 401

Maritime Administration

46 CFR Parts 221, 307, 340, and 356

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 107, 171, and 190

Federal Railroad Administration

49 CFR Parts 209, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 227, 228, 229, 230, 231, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, and 272

Federal Motor Carrier Safety Administration

49 CFR Part 386

National Highway Traffic Safety Administration

49 CFR Part 578

RIN 2105–AF12

Revisions to Civil Penalty Amounts

AGENCY: Department of Transportation (DOT or the Department).

ACTION: Final rule.

SUMMARY: This final rule provides the statutorily-prescribed 2023 adjustment to civil penalty amounts that may be imposed for violations of certain DOT regulations.

DATES: This rule is effective January 6, 2023.

FOR FURTHER INFORMATION CONTACT: Elizabeth Kohl, Attorney-Advisor, Office of the General Counsel, U.S. Department of Transportation, 1200 New Jersey Ave. SE, Washington, DC 20590, 202–366–7253; *elizabeth.kohl@dot.gov.*

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

This rule implements the Federal Civil Penalties Inflation Adjustment Act of 1990 (FCPIAA), Public Law 101–410, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (2015 Act), Public Law 114–74, 129 Stat. 599, codified at 28 U.S.C. 2461 note. The FCPIAA and the 2015 Act require Federal agencies to adjust minimum and maximum civil penalty amounts to preserve their deterrent impact. The 2015 Act amended the formula and frequency of the adjustments. It required an initial catch-up adjustment in the form of an interim final rule, followed by annual adjustments of civil penalty amounts using a statutorily mandated formula.

Section 4(b)(2) of the 2015 Act specifically directs that the annual adjustment be accomplished through final rule without notice and comment. This rule is effective immediately.

The Department's authorities over the specific civil penalty regulations being amended by this rule are provided in the preamble discussion below.

I. Background

On November 2, 2015, the President signed into law the 2015 Act, which amended the FCPIAA, to improve the effectiveness of civil monetary penalties and to maintain their deterrent effect. The 2015 Act requires Federal agencies to: (1) adjust the level of civil monetary penalties with an initial ''catch-up'' adjustment through an interim final rule (IFR); and (2) make subsequent annual adjustments.

The 2015 Act directed the Office of Management and Budget (OMB) to issue guidance on implementing the required annual adjustment no later than December 15 of each year.[1] On December 15, 2022, OMB released this required guidance, in OMB Memorandum M–23–05, which provides instructions on how to calculate the 2023 annual adjustment. To derive the 2023 adjustment, the Department must multiply the maximum or minimum penalty amount by the percent change between the October 2022 Consumer Price Index for All Urban Consumers (CPI–U) and the October 2021 CPI–U. In this case, as explained in OMB Memorandum M–23–05, the percent change between the October 2022 CPI–U and the October 2021 CPI–U is 1.07745.

II. Issuance of a Final Rule

This final rule is being published without notice and comment and with an immediate effective date.

The 2015 Act provides clear direction for how to adjust the civil penalties, and clearly states at section 4(b)(2) that this adjustment shall be made ''notwithstanding section 553 of title 5, United States Code.'' By operation of the 2015 Act, DOT must publish an annual adjustment by January 15 of every year, and the new levels take effect upon publication of the rule. Accordingly, DOT is publishing this final rule without prior notice and comment, and with an immediate effective date.

III. Discussion of the Final Rule

In 2016, OST and DOT's operating administrations with civil monetary penalties promulgated the ''catch up'' IFR required by the 2015 Act. All DOT operating administrations have already finalized their ''catch up'' IFRs, and this rule makes the annual adjustment required by the 2015 Act.

The Department emphasizes that this rule adjusts penalties prospectively, and therefore the penalty adjustments made by this rule will apply only to violations that take place after this rule becomes effective. This rule also does not change previously assessed or enforced penalties that DOT is actively collecting or has collected.

A. Office of the Secretary (OST) 2023 Adjustments

OST's 2023 civil penalty adjustments are summarized in the chart below.

Description	Citation	Existing penalty	New penalty (existing penalty × 1.07745)
General civil penalty for violations of certain aviation economic regulations and statutes.	49 U.S.C. 46301(a)(1)	$37,377	$40,272
General civil penalty for violations of certain aviation economic regulations and statutes involving an individual or small business concern.	49 U.S.C. 46301(a)(1)	1,644	1,771

[1] 28 U.S.C. 2461 note.

Description	Citation	Existing penalty	New penalty (existing penalty × 1.07745)
Civil penalties for individuals or small businesses for violations of most provisions of Chapter 401 of Title 49, including the anti-discrimination provisions of sections 40127 and 41705 and rules and orders issued pursuant to these provisions.	49 U.S.C. 46301(a)(5)(A)	14,950	16,108
Civil penalties for individuals or small businesses for violations of 49 U.S.C. 41719 and rules and orders issued pursuant to that provision.	49 U.S.C. 46301(a)(5)(C)	7,475	8,054
Civil penalties for individuals or small businesses for violations of 49 U.S.C. 41712 or consumer protection rules and orders issued pursuant to that provision.	49 U.S.C. 46301(a)(5)(D)	3,738	4,028

B. Federal Aviation Administration (FAA) 2023 Adjustments

FAA's 2023 civil penalty adjustments are summarized in the chart below.

Description	Citation	Existing penalty	New penalty (existing penalty × 1.07745)
Violation of hazardous materials transportation law	49 U.S.C. 5123(a)(1)	$89,678	$96,624
Violation of hazardous materials transportation law resulting in death, serious illness, severe injury, or substantial property destruction.	49 U.S.C. 5123(a)(2)	209,249	225,455
Minimum penalty for violation of hazardous materials transportation law relating to training.	49 U.S.C. 5123(a)(3)	540	582
Maximum penalty for violation of hazardous materials transportation law relating to training.	49 U.S.C. 5123(a)(3)	89,678	96,624
Knowing presentation of a nonconforming aircraft for issuance of an initial airworthiness certificate by a production certificate holder.	49 U.S.C. 44704(d)(3)(B)	1,062,220	1,144,489
Knowing failure by an applicant for or holder of a type certificate to submit safety critical information or include certain such information in an airplane flight manual or flight crew operating manual contrary to 49 U.S.C. 44704(e)(1)–(3).	49 U.S.C. 44704(e)(4)(A)	1,062,220	1,144,489
Operation of an unmanned aircraft or unmanned aircraft system equipped or armed with a dangerous weapon.	49 U.S.C. 44802 note	27,344	29,462
Violation by a person other than an individual or small business concern under 49 U.S.C. 46301(a)(1)(A) or (B).	49 U.S.C. 46301(a)(1)	37,377	40,272
Violation by an airman serving as an airman under 49 U.S.C. 46301(a)(1)(A) or (B) (but not covered by 46301(a)(5)(A) or (B)).	49 U.S.C. 46301(a)(1)	1,644	1,771
Violation by an individual or small business concern under 49 U.S.C. 46301(a)(1)(A) or (B) (but not covered in 49 U.S.C. 46301(a)(5)).	49 U.S.C. 46301(a)(1)	1,644	1,771
Violation by an individual or small business concern (except an airman serving as an airman) under 49 U.S.C. 46301(a)(5)(A)(i) or (ii).	49 U.S.C. 46301(a)(5)(A)	14,950	16,108
Violation by an individual or small business concern related to the transportation of hazardous materials.	49 U.S.C. 46301(a)(5)(B)(i)	14,950	16,108
Violation by an individual or small business concern related to the registration or recordation under 49 U.S.C. chapter 441, of an aircraft not used to provide air transportation.	49 U.S.C. 46301(a)(5)(B)(ii)	14,950	16,108
Violation by an individual or small business concern of 49 U.S.C. 44718(d), relating to limitation on construction or establishment of landfills.	49 U.S.C. 46301(a)(5)(B)(iii)	14,950	16,108
Violation by an individual or small business concern of 49 U.S.C. 44725, relating to the safe disposal of life-limited aircraft parts.	49 U.S.C. 46301(a)(5)(B)(iv)	14,950	16,108
Individual who aims the beam of a laser pointer at an aircraft in the airspace jurisdiction of the United States, or at the flight path of such an aircraft.	49 U.S.C. 46301 note	28,605	30,820
Tampering with a smoke alarm device	49 U.S.C. 46301(b)	4,799	5,171
Knowingly providing false information about alleged violation involving the special aircraft jurisdiction of the United States.	49 U.S.C. 46302	26,066	28,085
Physical or sexual assault or threat to physically or sexually assault crewmember or other individual on an aircraft, or action that poses an imminent threat to the safety of the aircraft or individuals on board.	49 U.S.C. 46318	39,247	42,287
Permanent closure of an airport without providing sufficient notice	49 U.S.C. 46319	14,950	16,108
Operating an unmanned aircraft and in so doing knowingly or recklessly interfering with a wildfire suppression, law enforcement, or emergency response effort.	49 U.S.C. 46320	22,884	24,656

Description	Citation	Existing penalty	New penalty (existing penalty × 1.07745)
Violation of 51 U.S.C. 50901–50923, a regulation issued under these statutes, or any term or condition of a license or permit issued or transferred under these statutes..	51 U.S.C. 50917(c)	262,666	283,009

C. National Highway Traffic Safety Administration (NHTSA) 2023 Adjustments

NHTSA's 2023 civil penalty adjustments are summarized in the chart below. DOT's annual civil monetary penalty adjustment for 2023 includes adjustments of NHTSA's civil penalties for violations of applicable corporate average fuel economy (CAFE) standards. Those standards, including any statutorily required adjustments, were previously addressed in a separate rulemaking proceeding (*see* NHTSA's final rule published in April 2022 (87 FR 18994 (Apr. 1, 2022)). Going forward, and including this 2023 adjustment, DOT intends to update the CAFE civil penalties addressed in that rulemaking in the DOT annual civil monetary penalties adjustment.

Description	Citation	Existing penalty	New Penalty (existing penalty × 1.07745)
Maximum penalty amount for each violation of: 49 U.S.C. 30112, 30115, 30117–30122, 30123(a), 30125(c), 30127, 30141–30147, 30166 or 31137, or a regulation prescribed under any of these sections.	49 U.S.C. 30165(a)(1), 30165(a)(3)	$24,423	$26,315
Maximum penalty amount for a related series of violations of: 49 U.S.C. 30112, 30115, 30117–30122, 30123(a), 30125(c), 30127, 30141-30147, 30166 or 31137, or a regulation prescribed under any of these sections.	49 U.S.C. 30165(a)(1), 30165(a)(3)	122,106,996	131,564,183
Maximum penalty per school bus related violation of 49 U.S.C. 30112(a)(1) or 30112(a)(2).	49 U.S.C. 30165(a)(2)(A)	13,885	14,960
Maximum penalty amount for a series of school bus related violations of 49 U.S.C. 30112(a)(1) or 30112(a)(2).	49 U.S.C. 30165(a)(2)(B)	20,827,441	22,440,526
Maximum penalty per violation for filing false or misleading reports	49 U.S.C. 30165(a)(4)	5,978	6,441
Maximum penalty amount for a series of violations related to filing false or misleading reports.	49 U.S.C. 30165(a)(4)	1,195,707	1,288,315
Maximum penalty amount for each violation of the reporting requirements related to maintaining the National Motor Vehicle Title Information System.	49 U.S.C. 30505	1,949	2,100
Maximum penalty amount for each violation of a bumper standard under 49 U.S.C. 32506.	49 U.S.C. 32507(a)	3,198	3,446
Maximum penalty amount for a series of violations of a bumper standard under 49 U.S.C. 32506.	49 U.S.C. 32507(a)	3,561,551	3,837,393
Maximum penalty amount for each violation of 49 U.S.C. 32308(a) related to providing information on crashworthiness and damage susceptibility.	49 U.S.C. 32308(b)	3,198	3,446
Maximum penalty amount for a series of violations of 49 U.S.C. 32308(a) related to providing information on crashworthiness and damage susceptibility.	49 U.S.C. 32308(b)	1,744,386	1,879,489
Maximum penalty for each violation related to the tire fuel efficiency information program.	49 U.S.C. 32308(c)	66,191	71,317
Maximum civil penalty for willfully failing to affix, or failing to maintain, the label required in 49 U.S.C. 32304.	49 U.S.C. 32309	1,949	2,100
Maximum penalty amount per violation related to odometer tampering and disclosure.	49 U.S.C. 32709	11,956	12,882
Maximum penalty amount for a related series of violations related to odometer tampering and disclosure.	49 U.S.C. 32709	1,195,707	1,288,315
Maximum penalty amount per violation related to odometer tampering and disclosure with intent to defraud.	49 U.S.C. 32710	11,956	12,882
Maximum penalty amount for each violation of 49 U.S.C. 33114(a)(1)–(4).	49 U.S.C. 33115(a)	2,627	2,830
Maximum penalty amount for a related series of violations of 49 U.S.C. 33114(a)(1)–(4).	49 U.S.C. 33115(a)	656,665	707,524
Maximum civil penalty for violations of 49 U.S.C. 33114(a)(5)	49 U.S.C. 33115(b)	195,054	210,161
Maximum civil penalty for violations under 49 U.S.C. 32911(a) related to automobile fuel economy.	49 U.S.C 32912(a)	45,973	49,534
Civil penalty factor for violations of fuel economy standards prescribed for a model year under 49 U.S.C. 32902[2].	49 U.S.C. 32912(b)	$15	$16

[2] For model years before model year 2019, the civil penalty is $5.50; for model years 2019 through 2021, the civil penalty is $14; for model year 2022, the civil penalty is $15; for model year 2023, the civil penalty is $16.

Description	Citation	Existing penalty	New Penalty (existing penalty × 1.07745)
Maximum civil penalty factor that may be prescribed for fuel economy standards under 49.	49 U.S.C. 32912(c)(1)(B)	29	$31
Maximum civil penalty for a violation under the medium- and heavy-duty vehicle fuel efficiency program.	49 U.S.C. 32902	45,273	48,779

D. Federal Motor Carrier Safety Administration (FMCSA) 2023 Adjustments

FMCSA's civil penalties affected by this rule are all located in appendices A and B to 49 CFR part 386. The 2023 adjustments to these civil penalties are summarized in the chart below.

Description	Citation	Existing penalty	New penalty (existing penalty × 1.07745)
Appendix A II Subpoena	49 U.S.C. 525	$1,195	$1,288
Appendix A II Subpoena	49 U.S.C. 525	11,956	12,882
Appendix A IV (a) Out-of-service order (operation of commercial motor vehicle (CMV) by driver).	49 U.S.C. 521(b)(7)	2,072	2,232
Appendix A IV (b) Out-of-service order (requiring or permitting operation of CMV by driver).	49 U.S.C. 521(b)(7)	20,719	22,324
Appendix A IV (c) Out-of-service order (operation by driver of CMV or intermodal equipment that was placed out of service).	49 U.S.C. 521(b)(7)	2,072	2,232
Appendix A IV (d) Out-of-service order (requiring or permitting operation of CMV or intermodal equipment that was placed out of service).	49 U.S.C. 521(b)(7)	20,719	22,324
Appendix A IV (e) Out-of-service order (failure to return written certification of correction).	49 U.S.C. 521(b)(2)(B)	1,036	1,116
Appendix A IV (g) Out-of-service order (failure to cease operations as ordered).	49 U.S.C. 521(b)(2)(F)	29,893	32,208
Appendix A IV (h) Out-of-service order (operating in violation of order)	49 U.S.C. 521(b)(7)	26,269	28,304
Appendix A IV (i) Out-of-service order (conducting operations during suspension or revocation for failure to pay penalties).	49 U.S.C. 521(b)(2)(A) and (b)(7)	16,864	18,170
Appendix A IV (j) (conducting operations during suspension or revocation).	49 U.S.C. 521(b)(7)	26,269	28,304
Appendix B (a)(1) Recordkeeping—maximum penalty per day	49 U.S.C. 521(b)(2)(B)(i)	1,388	1,496
Appendix B (a)(1) Recordkeeping—maximum total penalty	49 U.S.C. 521(b)(2)(B)(i)	13,885	14,960
Appendix B (a)(2) Knowing falsification of records	49 U.S.C. 521(b)(2)(B)(ii)	13,885	14,960
Appendix B (a)(3) Non-recordkeeping violations	49 U.S.C. 521(b)(2)(A)	16,864	18,170
Appendix B (a)(4) Non-recordkeeping violations by drivers	49 U.S.C. 521(b)(2)(A)	4,216	4,543
Appendix B (a)(5) Violation of 49 CFR 392.5 (first conviction)	49 U.S.C. 31310(i)(2)(A)	3,471	3,740
Appendix B (a)(5) Violation of 49 CFR 392.5 (second or subsequent conviction).	49 U.S.C. 31310(i)(2)(A)	6,943	7,481
Appendix B (b) Commercial driver's license (CDL) violations	49 U.S.C. 521(b)(2)(C)	6,269	6,755
Appendix B (b)(1): Special penalties pertaining to violation of out-of-service orders (first conviction).	49 U.S.C. 31310(i)(2)(A)	3,471	3,740
Appendix B (b)(1) Special penalties pertaining to violation of out-of-service orders (second or subsequent conviction).	49 U.S.C. 31310(i)(2)(A)	6,943	7,481
Appendix B (b)(2) Employer violations pertaining to knowingly allowing, authorizing employee violations of out-of-service order (minimum penalty).	49 U.S.C. 521(b)(2)(C)	6,269	6,755
Appendix B (b)(2) Employer violations pertaining to knowingly allowing, authorizing employee violations of out-of-service order (maximum penalty).	49 U.S.C. 31310(i)(2)(C)	34,712	37,400
Appendix B (b)(3) Special penalties pertaining to railroad-highway grade crossing violations.	49 U.S.C. 31310(j)(2)(B)	17,995	19,389
Appendix B (d) Financial responsibility violations	49 U.S.C. 31138(d)(1), 31139(g)(1)	18,500	19,933
Appendix B (e)(1) Violations of Hazardous Materials Regulations (HMRs) and Safety Permitting Regulations (transportation or shipment of hazardous materials).	49 U.S.C. 5123(a)(1)	89,678	96,624
Appendix B (e)(2) Violations of Hazardous Materials Regulations (HMRs) and Safety Permitting Regulations (training)—minimum penalty.	49 U.S.C. 5123(a)(3)	540	582
Appendix B (e)(2): Violations of Hazardous Materials Regulations (HMRs) and Safety Permitting Regulations (training)—maximum penalty.	49 U.S.C. 5123(a)(1)	89,678	96,624
Appendix B (e)(3) Violations of Hazardous Materials Regulations (HMRs) and Safety Permitting Regulations (packaging or container).	49 U.S.C. 5123(a)(1)	89,678	96,624

Description	Citation	Existing penalty	New penalty (existing penalty × 1.07745)
Appendix B (e)(4): Violations of Hazardous Materials Regulations (HMRs) and Safety Permitting Regulations (compliance with FMCSRs).	49 U.S.C. 5123(a)(1)	89,678	96,624
Appendix B (e)(5) Violations of Hazardous Materials Regulations (HMRs) and Safety Permitting Regulations (death, serious illness, severe injury to persons; destruction of property).	49 U.S.C. 5123(a)(2)	209,249	225,455
Appendix B (f)(1) Operating after being declared unfit by assignment of a final ''unsatisfactory'' safety rating (generally).	49 U.S.C. 521(b)(2)(F)	29,893	32,208
Appendix B (f)(2) Operating after being declared unfit by assignment of a final ''unsatisfactory'' safety rating (hazardous materials)—maximum penalty.	49 U.S.C. 5123(a)(1)	89,678	96,624
Appendix B (f)(2): Operating after being declared unfit by assignment of a final ''unsatisfactory'' safety rating (hazardous materials)—maximum penalty if death, serious illness, severe injury to persons; destruction of property.	49 U.S.C. 5123(a)(2)	209,249	225,455
Appendix B (g)(1): Violations of the commercial regulations (CRs) (property carriers).	49 U.S.C. 14901(a)	11,956	12,882
Appendix B (g)(2) Violations of the CRs (brokers)	49 U.S.C. 14916(c)	11,956	12,882
Appendix B (g)(3) Violations of the CRs (passenger carriers)	49 U.S.C. 14901(a)	29,893	32,208
Appendix B (g)(4) Violations of the CRs (foreign motor carriers, foreign motor private carriers).	49 U.S.C. 14901(a)	11,956	12,882
Appendix B (g)(5) Violations of the operating authority requirement (foreign motor carriers, foreign motor private carriers)—maximum penalty for intentional violation.	49 U.S.C. 14901 note	16,443	17,717
Appendix B (g)(5) Violations of the operating authority requirement (foreign motor carriers, foreign motor private carriers)—maximum penalty for a pattern of intentional violations.	49 U.S.C. 14901 note	41,110	44,294
Appendix B (g)(6) Violations of the CRs (motor carrier or broker for transportation of hazardous wastes)—minimum penalty.	49 U.S.C. 14901(b)	23,915	25,767
Appendix B (g)(6) Violations of the CRs (motor carrier or broker for transportation of hazardous wastes)—maximum penalty.	49 U.S.C. 14901(b)	47,829	51,533
Appendix B (g)(7): Violations of the CRs (household goods (HHG) carrier or freight forwarder, or their receiver or trustee).	I49 U.S.C. 14901(d)(1)	1,798	1,937
Appendix B (g)(8) Violation of the CRs (weight of HHG shipment, charging for services)—minimum penalty for first violation.	49 U.S.C. 14901(e)	3,600	3,879
Appendix B (g)(8) Violation of the CRs (weight of HHG shipment, charging for services)—minimum penalty for subsequent violation.	49 U.S.C. 14901(e)	8,998	9,695
Appendix B (g)(10) Tariff violations	49 U.S.C. 13702, 14903	179,953	193,890
Appendix B (g)(11) Additional tariff violations (rebates or concessions)—first violation.	49 U.S.C. 14904(a)	359	387
Appendix B (g)(11) Additional tariff violations (rebates or concessions)—subsequent violations.	49 U.S.C. 14904(a)	449	484
Appendix B (g)(12): Tariff violations (freight forwarders)—maximum penalty for first violation.	49 U.S.C. 14904(b)(1)	901	971
Appendix B (g)(12): Tariff violations (freight forwarders)—maximum penalty for subsequent violations.	49 U.S.C. 14904(b)(1)	3,600	3,879
Appendix B (g)(13): service from freight forwarder at less than rate in effect—maximum penalty for first violation.	49 U.S.C. 14904(b)(2)	901	971
Appendix B (g)(13): service from freight forwarder at less than rate in effect—maximum penalty for subsequent violation(s).	49 U.S.C. 14904(b)(2)	3,600	3,879
Appendix B (g)(14): Violations related to loading and unloading motor vehicles.	49 U.S.C. 14905	17,995	19,389
Appendix B (g)(16): Reporting and recordkeeping under 49 U.S.C. subtitle IV, part B (except 13901 and 13902(c))—minimum penalty.	49 U.S.C. 14901	1,195	1,288
Appendix B (g)(16): Reporting and recordkeeping under 49 U.S.C. subtitle IV, part B—maximum penalty.	49 U.S.C. 14907	8,998	9,695
Appendix B (g)(17): Unauthorized disclosure of information	49 U.S.C. 14908	3,600	3,879
Appendix B (g)(18): Violation of 49 U.S.C. subtitle IV, part B, or condition of registration.	49 U.S.C. 14910	901	971
Appendix B (g)(21)(i): Knowingly and willfully fails to deliver or unload HHG at destination.	49 U.S.C. 14915	17,995	19,389
Appendix B (g)(22): HHG broker estimate before entering into an agreement with a motor carrier.	49 U.S.C. 14901(d)(2)	13,885	14,960
Appendix B (g)(23): HHG transportation or broker services—registration requirement.	49 U.S.C. 14901 (d)(3)	34,712	37,400
Appendix B (h): Copying of records and access to equipment, lands, and buildings—maximum penalty per day.	49 U.S.C. 521(b)(2)(E)	1,388	1,496
Appendix B (h): Copying of records and access to equipment, lands, and buildings—maximum total penalty.	49 U.S.C. 521(b)(2)(E)	13,885	14,960

Description	Citation	Existing penalty	New penalty (existing penalty × 1.07745)
Appendix B (i)(1): Evasion of regulations under 49 U.S.C. ch. 5, 51, subchapter III of ch. 311 (except 31138 and 31139), 31302–31304, 31305(b), 31310(g)(1)(A), or 31502—minimum penalty for first violation.	49 U.S.C. 524	2,392	2,577
Appendix B (i)(1): Evasion of regulations under 49 U.S.C. ch. 5, 51, subchapter III of ch. 311 (except 31138 and 31139), 31302–31304, 31305(b), 31310(g)(1)(A), or 31502—maximum penalty for first violation.	49 U.S.C. 524	5,978	6,441
Appendix B (i)(1): Evasion of regulations under 49 U.S.C. ch. 5, 51, subchapter III of ch. 311 (except 31138 and 31139), 31302–31304, 31305(b), 31310(g)(1)(A), or 31502—minimum penalty for subsequent violation(s).	49 U.S.C. 524	2,988	3,219
Appendix B (i)(1): Evasion of regulations under 49 U.S.C. ch. 5, 51, subchapter III of ch. 311 (except 31138 and 31139), 31302–31304, 31305(b), 31310(g)(1)(A), or 31502—maximum penalty for subsequent violation(s).	49 U.S.C. 524	8,958	9,652
Appendix B (i)(2): Evasion of regulations under 49 U.S.C. subtitle IV, part B—minimum penalty for first violation.	49 U.S.C. 14906	2,392	2,577
Appendix B (i)(2): Evasion of regulations under 49 U.S.C. subtitle IV, part B—minimum penalty for subsequent violation(s).	49 U.S.C. 14906	5,978	6,441

E. Federal Railroad Administration (FRA) 2023 Adjustments

FRA's 2023 civil penalty adjustments are summarized in the chart below.

Description	Citation	Existing penalty	New penalty (existing penalty × 1.07745)
Minimum rail safety penalty	49 U.S.C. ch. 213	$976	$1,052
Ordinary maximum rail safety penalty	49 U.S.C. ch. 213	31,928	34,401
Maximum penalty for an aggravated rail safety violation	49 U.S.C. ch. 213	127,712	137,603
Minimum penalty for hazardous materials training violations	49 U.S.C. 5123	540	582
Maximum penalty for ordinary hazardous materials violations	49 U.S.C. 5123	89,678	96,624
Maximum penalty for aggravated hazardous materials violations	49 U.S.C. 5123	209,249	225,455

F. Pipeline and Hazardous Materials Safety Administration (PHMSA) 2023 Adjustments

PHMA's civil penalties affected by this rule for hazardous materials violations are located in 49 CFR 107.329, appendix A to subpart D of 49 CFR part 107, and § 171.1. The civil penalties affected by this rule for pipeline safety violations are located in § 190.223. PHMSA's 2023 civil penalty adjustments are summarized in the chart below.

Description	Citation	Existing penalty	New penalty (existing penalty × 1.07745
Maximum penalty for hazardous materials violation	49 U.S.C. 5123	$89,678	$96,624
Maximum penalty for hazardous materials violation that results in death, serious illness, or severe injury to any person or substantial destruction of property.	49 U.S.C. 5123	209,249	225,455
Minimum penalty for hazardous materials training violations	49 U.S.C. 5123	540	582
Maximum penalty for each pipeline safety violation	49 U.S.C. 60122(a)(1)	239,142	257,664
Maximum penalty for a related series of pipeline safety violations	49 U.S.C. 60122(a)(1)	2,391,412	2,576,627
Maximum additional penalty for each liquefied natural gas pipeline facility violation.	49 U.S.C. 60122(a)(2)	87,362	94,128
Maximum penalty for discrimination against employees providing pipeline safety information.	49 U.S.C. 60122(a)(3)	1,388	1,496

G. Maritime Administration (MARAD) 2023 Adjustments

MARAD's 2023 civil penalty adjustments are summarized in the chart below.

Description	Citation	Existing penalty	New penalty (existing penalty × 1.07745)
Maximum civil penalty for a single violation of any provision under 46 U.S.C. Chapter 313 and all of Subtitle III related MARAD regulations, except for violations of 46 U.S.C. 31329.	46 U.S.C. 31309	$22,967	$24,746
Maximum civil penalty for a single violation of 46 U.S.C. 31329 as it relates to the court sales of documented vessels.	46 U.S.C. 31330	57,527	61,982
Maximum civil penalty for a single violation of 46 U.S.C. 56101 as it relates to approvals required to transfer a vessel to a noncitizen.	46 U.S.C. 56101(e)	23,115	24,905
Maximum civil penalty for failure to file an Automated Mutual Assistance Vessel Rescue System (AMVER) report.	46 U.S.C. 50113(b)	146	157
Maximum civil penalty for violating procedures for the use and allocation of shipping services, port facilities and services for national security and national defense operations.	50 U.S.C. 4513	29,074	31,326
Maximum civil penalty for violations in applying for or renewing a vessel's fishery endorsement.	46 U.S.C. 12151	168,651	181,713

H. Great Lakes St. Lawrence Seaway Development Corporation (GLS) 2023 Adjustments

The 2023 civil penalty adjustment for GLS is as follows:

Description	Citation	Existing penalty	New penalty (existing penalty × 1.07745)
Maximum civil penalty for each violation of the Seaway Rules and Regulations at 33 CFR part 401.	33 U.S.C. 1232	$103,050	$111,031

Regulatory Analysis and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This final rule has been evaluated in accordance with existing policies and procedures and is considered not significant under Executive Order 12866 and DOT's Regulatory Policies and Procedures; therefore, the rule has not been reviewed by the Office of Management and Budget (OMB) under Executive Order 12866.

B. Regulatory Flexibility Analysis

The Department has determined the Regulatory Flexibility Act of 1980 (RFA) (5 U.S.C. 601, *et seq.*) does not apply to this rulemaking. The RFA applies, in pertinent part, only when ''an agency is required . . . to publish general notice of proposed rulemaking.'' 5 U.S.C. 604(a). The Small Business Administration's *A Guide for Government Agencies: How to Comply with the Regulatory Flexibility Act* (2012), explains that:

If, under the [Administrative Procedure Act (APA)] or any rule of general applicability governing federal grants to state and local governments, the agency is required to publish a general notice of proposed rulemaking (NPRM), the RFA must be considered [citing 5 U.S.C. 604(a)]. . . . If an NPRM is not required, the RFA does not apply.

As stated above, DOT has determined that good cause exists to publish this final rule without notice and comment procedures under the APA. Therefore, the analytical requirements of the RFA do not apply.

C. Executive Order 13132 (Federalism)

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 (''Federalism''). This regulation has no substantial direct effects on the States, the relationship between the National Government and the States, or the distribution of power and responsibilities among the various levels of government. It does not contain any provision that imposes substantial direct compliance costs on State and local governments. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

D. Executive Order 13175

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. Because none of the measures in the rule have tribal implications or impose substantial direct compliance costs on Indian tribal governments, the funding and consultation requirements of Executive Order 13175 do not apply.

E. Paperwork Reduction Act

Under the Paperwork Reduction Act, before an agency submits a proposed collection of information to OMB for approval, it must publish a document in the **Federal Register** providing notice of and a 60-day comment period on, and otherwise consult with members of the public and affected agencies concerning,

each proposed collection of information. This final rule imposes no new information reporting or record keeping necessitating clearance by OMB.

F. National Environmental Policy Act

The Department has analyzed the environmental impacts of this final rule pursuant to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321, *et seq.*) and has determined that it is categorically excluded pursuant to DOT Order 5610.1C, Procedures for Considering Environmental Impacts (44 FR 56420, Oct. 1, 1979, as amended July 13, 1982, and July 30, 1985). Categorical exclusions are actions identified in an agency's NEPA implementing procedures that do not normally have a significant impact on the environment and therefore do not require either an environmental assessment (EA) or environmental impact statement (EIS). *See* 40 CFR 1508.4. In analyzing the applicability of a categorical exclusion, the agency must also consider whether extraordinary circumstances are present that would warrant the preparation of an EA or EIS. *Id.* Paragraph 4(c)(5) of DOT Order 5610.1C includes the categorical exclusions for all DOT Operating Administrations. This action qualifies for a categorical exclusion in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures (80 FR 44208, July 24, 2015), paragraph 5–6.6.f, which covers regulations not expected to cause any potentially significant environmental impacts. The Department does not anticipate any environmental impacts, and there are no extraordinary circumstances present in connection with this final rule.

G. Unfunded Mandates Reform Act

The Department analyzed the final rule under the factors in the Unfunded Mandates Reform Act of 1995. The Department considered whether the rule includes a Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year. The Department has determined that this final rule will not result in such expenditures. Accordingly, no further assessment or analysis is required under the Unfunded Mandates Reform Act.

List of Subjects

14 CFR Part 13

Administrative practice and procedure, Air transportation, Hazardous materials transportation, Investigations, Law enforcement, Penalties.

14 CFR Part 383

Administrative practice and procedure, Penalties.

14 CFR Part 406

Administrative procedure and review, Commercial space transportation, Enforcement, Investigations, Penalties, Rules of adjudication.

33 CFR Part 401

Hazardous materials transportation, Navigation (water), Penalties, Radio, Reporting and recordkeeping requirements, Vessels, Waterways.

46 CFR Part 221

Administrative practice and procedure, Maritime carriers, Mortgages, Penalties, Reporting and recordkeeping requirements, Trusts and trustees.

46 CFR Part 307

Marine safety, Maritime carriers, Penalties, Reporting and recordkeeping requirements.

46 CFR Part 340

Harbors, Maritime carriers, National defense, Packaging and containers.

46 CFR Part 356

Citizenship and naturalization, Fishing vessels, Mortgages, Penalties, Reporting and recordkeeping requirements, Vessels.

49 CFR Part 107

Administrative practices and procedure, Hazardous materials transportation, Packaging and containers, Penalties, Reporting and recordkeeping requirements.

49 CFR Part 171

Administrative practice and procedure, Exports, Hazardous materials transportation, Hazardous waste, Imports, Information, Reporting and recordkeeping requirements.

49 CFR Part 190

Administrative practice and procedure, Penalties, Pipeline safety.

49 CFR Part 209

Administrative practice and procedure, Hazardous materials transportation, Penalties, Railroad safety, Reporting and recordkeeping requirements.

49 CFR Part 213

Bridges, Penalties, Railroad safety, Reporting and recordkeeping requirements.

49 CFR Part 214

Bridges, Occupational safety and health, Penalties, Railroad safety, Reporting and recordkeeping requirements.

49 CFR Part 215

Freight, Penalties, Railroad safety, Reporting and recordkeeping requirements.

49 CFR Parts 216, 217, 221, 224, 229, 230, 232, 233, and 239

Penalties, Railroad safety, Reporting and recordkeeping requirements.

49 CFR Part 218

Occupational safety and health, Penalties, Railroad employees, Railroad safety, Reporting and recordkeeping requirements.

49 CFR Part 219

Alcohol abuse, Drug abuse, Drug testing, Penalties, Railroad safety, Reporting and recordkeeping requirements, Safety, Transportation.

49 CFR Part 220

Penalties, Radio, Railroad safety, Reporting and recordkeeping requirements.

49 CFR Parts 222, 235, 240, 242, 243, and 244

Administrative practice and procedure, Penalties, Railroad safety, Reporting and recordkeeping requirements.

49 CFR Part 223

Glazing standards, Penalties, Railroad safety, Reporting and recordkeeping requirements.

49 CFR Part 225

Investigations, Penalties, Railroad safety, Reporting and recordkeeping requirements.

49 CFR Part 227

Noise control, Occupational safety and health, Penalties, Railroad safety, Reporting and recordkeeping requirements.

49 CFR Part 228

Penalties, Railroad employees, Reporting and recordkeeping requirements.

49 CFR Part 231

Penalties, Railroad safety.

49 CFR Part 234

Highway safety, Penalties, Railroad safety, Reporting and recordkeeping requirements, State and local governments.

49 CFR Part 236

Penalties, Positive train control, Railroad safety, Reporting and recordkeeping requirements.

49 CFR Part 237

Bridges, Penalties, Railroad safety, Reporting and recordkeeping requirements.

49 CFR Part 238

Fire prevention, Passenger equipment, Penalties, Railroad safety, Reporting and recordkeeping requirements.

49 CFR Part 241

Communications, Penalties, Railroad safety, Reporting and recordkeeping requirements.

49 CFR Part 272

Penalties, Railroad employees, Railroad safety, Railroads, Safety, Transportation.

49 CFR Part 386

Administrative procedures, Commercial motor vehicle safety, Highways and roads, Motor carriers, Penalties.

49 CFR Part 578

Imports, Motor vehicle safety, Motor vehicles, Penalties, Rubber and rubber products, Tires.

Accordingly, the Department of Transportation amends 14 CFR chapters I, II, and III, 33 CFR chapter IV, 46 CFR chapter II, and 49 CFR chapters I, II, III, and V as follows:

Title 14—Aeronautics and Space

PART 13—INVESTIGATIVE AND ENFORCEMENT PROCEDURES

■ 1. The authority citation for part 13 is revised to read as follows:

Authority: 18 U.S.C. 6002; 28 U.S.C. 2461 (note); 49 U.S.C. 106(g), 5121–5124, 40113–40114, 44103–44106, 44701–44704, 44709–44710, 44713, 44725, 44742, 44802 (note), 46101–46111, 46301, 46302 (for a violation of 49 U.S.C. 46504), 46304–46316, 46318–46320, 46501–46502, 46504, 46507, 47106, 47107, 47111, 47122, 47306, 47531–47532; 49 CFR 1.83.

■ 2. Amend § 13.301 by revising paragraphs (b) and (c) to read as follows:

§ 13.301 Inflation adjustments of civil monetary penalties.

* * * * *

(b) Each adjustment to a maximum civil monetary penalty or to minimum and maximum civil monetary penalties that establish a civil monetary penalty range applies to actions initiated under this part for violations occurring on or after January 6, 2023, notwithstanding references to specific civil penalty amounts elsewhere in this part.

(c) Minimum and maximum civil monetary penalties are as follows:

TABLE 1 TO § 13.301—MINIMUM AND MAXIMUM CIVIL MONETARY PENALTY AMOUNTS FOR CERTAIN VIOLATIONS

United States Code citation	Civil monetary penalty description	2021 Minimum penalty amount	New adjusted minimum penalty amount for violations occurring on or after January 6, 2023	2022 Maximum penalty amount	New adjusted maximum penalty amount for violations occurring on or after January 6, 2023
49 U.S.C. 5123(a)(1)	Violation of hazardous materials transportation law.	N/A	N/A	$89,678	$96,624.
49 U.S.C. 5123(a)(2)	Violation of hazardous materials transportation law resulting in death, serious illness, severe injury, or substantial property destruction.	N/A	N/A	$209,249	$225,455.
49 U.S.C. 5123(a)(3)	Violation of hazardous materials transportation law relating to training.	$508	$540	$89,678	$96,624.
49 U.S.C. 44704(d)(3)	Knowing presentation of a nonconforming aircraft for issuance of an initial airworthiness certificate by a production certificate holder.	N/A	N/A	$1,062,220	$1,144,488.
49 U.S.C. 44704(e)(4)	Knowing failure by an applicant for or holder of a type certificate to submit safety critical information or include certain such information in an airplane flight manual or flight crew operating manual.	N/A	N/A	$1,062,220	$1,144,488.
49 U.S.C. 44704(e)(5)	Knowing false statement by an airline transport pilot (ATP) certificate holder with respect to the submission of certain safety critical information.	N/A	N/A	See entries for 49 U.S.C. 46301(a)(1) and (a)(5).	See entries for 49 U.S.C. 46301(a)(1) and (a)(5).
49 U.S.C. 44742	Interference by a supervisory employee of an organization designation authorization (ODA) holder that manufactures a transport category airplane with an ODA unit member's performance of authorized functions.	N/A	N/A	See entries for 49 U.S.C. 46301(a)(1).	See entries for 49 U.S.C. 46301(a)(1).
49 U.S.C. 44802 note	Operation of an unmanned aircraft or unmanned aircraft system equipped or armed with a dangerous weapon.	N/A	N/A	$27,344	$29,462.
49 U.S.C. 46301(a)(1)	Violation by a person other than an individual or small business concern under 49 U.S.C. 46301(a)(1)(A) or (B).	N/A	N/A	$37,377	$40,272.

TABLE 1 TO § 13.301—MINIMUM AND MAXIMUM CIVIL MONETARY PENALTY AMOUNTS FOR CERTAIN VIOLATIONS—Continued

United States Code citation	Civil monetary penalty description	2021 Minimum penalty amount	New adjusted minimum penalty amount for violations occurring on or after January 6, 2023	2022 Maximum penalty amount	New adjusted maximum penalty amount for violations occurring on or after January 6, 2023
49 U.S.C. 46301(a)(1)	Violation by an airman serving as an airman under 49 U.S.C. 46301(a)(1)(A) or (B) (but not covered by 46301(a)(5)(A) or (B)).	N/A	N/A	$1,644	$1,771.
49 U.S.C. 46301(a)(1)	Violation by an individual or small business concern under 49 U.S.C. 46301(a)(1)(A) or (B) (but not covered in 49 U.S.C. 46301(a)(5)).	N/A	N/A	$1,644	$1,771.
49 U.S.C. 46301(a)(3)	Violation of 49 U.S.C. 47107(b) (or any assurance made under such section) or 49 U.S.C. 47133.	N/A	N/A	Increase above otherwise applicable maximum amount not to exceed 3 times the amount of revenues used in violation of such section.	No change.
49 U.S.C. 46301(a)(5)(A).	Violation by an individual or small business concern (except an airman serving as an airman) under 49 U.S.C. 46301(a)(5)(A)(i) or (ii).	N/A	N/A	$14,950	$16,108.
49 U.S.C. 46301(a)(5)(B)(i).	Violation by an individual or small business concern related to the transportation of hazardous materials.	N/A	N/A	$14,950	$16,108.
49 U.S.C. 46301(a)(5)(B)(ii).	Violation by an individual or small business concern related to the registration or recordation under 49 U.S.C. chapter 441, of an aircraft not used to provide air transportation.	N/A	N/A	$14,950	$16,108.
49 U.S.C. 46301(a)(5)(B)(iii).	Violation by an individual or small business concern of 49 U.S.C. 44718(d), relating to limitation on construction or establishment of landfills.	N/A	N/A	$14,950	$16,108.
49 U.S.C. 46301(a)(5)(B)(iv).	Violation by an individual or small business concern of 49 U.S.C. 44725, relating to the safe disposal of life-limited aircraft parts.	N/A	N/A	$14,950	$16,108.
49 U.S.C. 46301 note	Individual who aims the beam of a laser pointer at an aircraft in the airspace jurisdiction of the United States, or at the flight path of such an aircraft.	N/A	N/A	$28,605	$30,820.
49 U.S.C. 46301(b) ...	Tampering with a smoke alarm device	N/A	N/A	$4,799	$5,171.
49 U.S.C. 46302	Knowingly providing false information about alleged violation involving the special aircraft jurisdiction of the United States.	N/A	N/A	$26,066	$28,085.
49 U.S.C. 46318	Physical or sexual assault or threat to physically or sexually assault crewmember or other individual on an aircraft, or action that poses an imminent threat to the safety of the aircraft or individuals on board.	N/A	N/A	$39,247	$42,287.
49 U.S.C. 46319	Permanent closure of an airport without providing sufficient notice.	N/A	N/A	$14,950	$16,108.
49 U.S.C. 46320	Operating an unmanned aircraft and in so doing knowingly or recklessly interfering with a wildfire suppression, law enforcement, or emergency response effort.	N/A	N/A	$22,884	$24,656.
49 U.S.C. 47531	Violation of 49 U.S.C. 47528–47530 or 47534, relating to the prohibition of operating certain aircraft not complying with stage 3 noise levels.	N/A	N/A	See entries for 49 U.S.C. 46301(a)(1) and (a)(5).	See entries for 49 U.S.C. 46301(a)(1) and (a)(5).

PART 383—CIVIL PENALTIES

■ 3. The authority citation for part 383 continues to read as follows:

Authority: Sec. 701, Pub. L. 114–74, 129 Stat. 584; Sec. 503, Pub. L. 108–176, 117 Stat. 2490; Pub. L. 101–410, 104 Stat. 890; Sec. 31001, Pub. L. 104–134.

■ 4. Section 383.2 is revised to read as follows:

§ 383.2 Amount of penalty.

Civil penalties payable to the U.S. Government for violations of Title 49, Chapters 401 through 421, pursuant to 49 U.S.C. 46301(a), are as follows:

(a) A general civil penalty of not more than $40,272 (or $1,771 for individuals or small businesses) applies to violations of statutory provisions and rules or orders issued under those provisions, other than those listed in paragraph (b) of this section (*see* 49 U.S.C. 46301(a)(1)); and

(b) With respect to small businesses and individuals, notwithstanding the general civil penalty specified in paragraph (a) of this section, the following civil penalty limits apply:

(1) A maximum civil penalty of $16,108 applies for violations of most provisions of Chapter 401, including the anti-discrimination provisions of sections 40127 (general provision), and 41705 (discrimination against the disabled) and rules and orders issued pursuant to those provisions (*see* 49 U.S.C. 46301(a)(5)(A));

(2) A maximum civil penalty of $8,054 applies for violations of section 41719 and rules and orders issued pursuant to that provision (*see* 49 U.S.C. 46301(a)(5)(C)); and

(3) A maximum civil penalty of $4,028 applies for violations of section 41712 or consumer protection rules or orders (*see* 49 U.S.C. 46301(a)(5)(D)).

PART 406—INVESTIGATIONS, ENFORCEMENT, AND ADMINISTRATIVE REVIEW

■ 5. The authority citation for part 406 continues to read as follows:

Authority: 51 U.S.C. 50901–50923.

■ 6. Amend § 406.9 by revising paragraph (a) to read as follows:

§ 406.9 Civil penalties.

(a) *Civil penalty liability.* Under 51 U.S.C. 50917(c), a person found by the Federal Aviation Administration (FAA) to have violated a requirement of the Act, a regulation issued under the Act, or any term or condition of a license or permit issued or transferred under the Act, is liable to the United States for a civil penalty of not more than $283,009 for each violation. A separate violation occurs for each day the violation continues.

* * * * *

Title 33—Navigation and Navigable Waters

PART 401—SEAWAY REGULATIONS AND RULES

Subpart B—Penalties—Violations of Seaway Regulations

■ 7. The authority citation for subpart B of part 401 is revised to read as follows:

Authority: 33 U.S.C. 981–990; 46 U.S.C. 70001–70004, 70011, and 70032; 49 CFR 1.101, unless otherwise noted.

■ 8. Amend § 401.102 by revising paragraph (a) to read as follows:

§ 401.102 Civil penalty.

(a) A person, as described in § 401.101(b) who violates a regulation in this chapter is liable to a civil penalty of not more than $ 111,031.

* * * * *

Title 46—Shipping

PART 221—REGULATED TRANSACTIONS INVOLVING DOCUMENTED VESSELS AND OTHER MARITIME INTERESTS

■ 9. The authority citation for part 221 continues to read as follows:

Authority: 46 U.S.C. chs. 301, 313, and 561; Pub. L. 114–74; 49 CFR 1.93.

■ 10. Amend § 221.61 by revising paragraph (b) to read as follows:

§ 221.61 Compliance.

* * * * *

(b) Pursuant to 46 U.S.C. 31309, a general penalty of not more than $24,746 may be assessed for each violation of chapter 313 or 46 U.S.C. subtitle III administered by the Maritime Administration, and pursuant to the regulations in this part a person violating 46 U.S.C. 31329 is liable for a civil penalty of not more than $61,982 for each violation. A person who charters, sells, transfers, or mortgages a vessel, or an interest therein, in violation of 46 U.S.C. 56101(e) is liable for a civil penalty of not more than $22,750 for each violation.

PART 307—ESTABLISHMENT OF MANDATORY POSITION REPORTING SYSTEM FOR VESSELS

■ 11. The authority citation for part 307 continues to read as follows:

Authority: Pub. L. 109–304; 46 U.S.C. 50113; Pub. L. 114–74; 49 CFR 1.93.

■ 12. Section 307.19 is revised to read as follows:

§ 307.19 Penalties.

The owner or operator of a vessel in the waterborne foreign commerce of the United States is subject to a penalty of $ 157 for each day of failure to file an AMVER report required by this part. Such penalty shall constitute a lien upon the vessel, and such vessel may be libeled in the district court of the United States in which the vessel may be found.

PART 340—PRIORITY USE AND ALLOCATION OF SHIPPING SERVICES, CONTAINERS AND CHASSIS, AND PORT FACILITIES AND SERVICES FOR NATIONAL SECURITY AND NATIONAL DEFENSE RELATED OPERATIONS

■ 13. The authority citation for part 340 continues to read as follows:

Authority: 50 U.S.C. 4501 *et seq.* (''The Defense Production Act''); Executive Order 13603 (77 FR 16651); Executive Order 12656 (53 FR 47491); Pub. L. 114–74; 49 CFR 1.45; 49 CFR 1.93(l).

■ 14. Section 340.9 is revised to read as follows:

§ 340.9 Compliance.

Pursuant to 50 U.S.C. 4513, any person who willfully performs any act prohibited, or willfully fails to perform any act required, by the provisions of this part shall, upon conviction, be fined not more than $31,326 or imprisoned for not more than one year, or both.

PART 356—REQUIREMENTS FOR VESSELS OF 100 FEET OR GREATER IN REGISTERED LENGTH TO OBTAIN A FISHERY ENDORSEMENT TO THE VESSEL'S DOCUMENTATION

■ 15. The authority citation for part 356 continues to read as follows:

Authority: 46 U.S.C. 12102; 46 U.S.C. 12151; 46 U.S.C. 31322; Pub. L. 105–277, division C, title II, subtitle I, section 203 (46 U.S.C. 12102 note), section 210(e), and section 213(g), 112 Stat. 2681; Pub. L. 107–20, section 2202, 115 Stat. 168–170; Pub. L. 114–74; 49 CFR 1.93.

■ 16. Amend § 356.49 by revising paragraph (b) to read as follows:

§ 356.49 Penalties.

* * * * *

(b) A fine of up to $181,713 may be assessed against the vessel owner for each day in which such vessel has engaged in fishing (as such term is defined in section 3 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802))

within the exclusive economic zone of the United States; and

* * * * *

Title 49—Transportation

PART 107—HAZARDOUS MATERIALS PROGRAM PROCEDURES

■ 17. The authority citation for part 107 continues to read as follows:

Authority: 49 U.S.C. 5101–5128, 44701; Pub. L. 101–410 Section 4; Pub. L. 104–121 Sections 212–213; Pub. L. 104–134 Section 31001; Pub. L. 114–74 Section 4 (28 U.S.C. note); 49 CFR 1.81 and 1.97; 33 U.S.C. 1321.

■ 18. Revise § 107.329 to read as follows:

§ 107.329 Maximum penalties.

(a) A person who knowingly violates a requirement of the Federal hazardous material transportation law, an order issued thereunder, this subchapter, subchapter C of this chapter, or a special permit or approval issued under this subchapter applicable to the transportation of hazardous materials or the causing of them to be transported or shipped is liable for a civil penalty of not more than $96,624 for each violation, except the maximum civil penalty is $225,455 if the violation results in death, serious illness, or severe injury to any person or substantial destruction of property. There is no minimum civil penalty, except for a minimum civil penalty of $582 for violations relating to training. When the violation is a continuing one, each day of the violation constitutes a separate offense.

(b) A person who knowingly violates a requirement of the Federal hazardous material transportation law, an order issued thereunder, this subchapter, subchapter C of this chapter, or a special permit or approval issued under this subchapter applicable to the design, manufacture, fabrication, inspection, marking, maintenance, reconditioning, repair or testing of a package, container, or packaging component which is represented, marked, certified, or sold by that person as qualified for use in the transportation of hazardous materials in commerce is liable for a civil penalty of not more than $96,624 for each violation, except the maximum civil penalty is $225,455 if the violation results in death, serious illness, or severe injury to any person or substantial destruction of property. There is no minimum civil penalty, except for a minimum civil penalty of $582 for violations relating to training.

Appendix A to Subpart D of Part 107 [Amended]

■ 19. Amend appendix A to subpart D of part 107 by removing ''$89,678 or $209,249'' and ''March 21, 2022'' and adding in their places ''$96,624 or $225,455'' and ''January 6, 2023,'' respectively.

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

■ 20. The authority citation for part 171 continues to read as follows:

Authority: 49 U.S.C. 5101–5128, 44701; Pub. L. 101–410 section 4; Pub. L. 104–134, section 31001; Pub. L. 114–74 section 4 (28 U.S.C. 2461 note); 49 CFR 1.81 and 1.97.

■ 21. Amend § 171.1 by revising paragraph (g) to read as follows:

§ 171.1 Applicability of Hazardous Materials Regulations (HMR) to persons and functions.

* * * * *

(g) *Penalties for noncompliance.* Each person who knowingly violates a requirement of the Federal hazardous material transportation law, an order issued under Federal hazardous material transportation law, subchapter A of this chapter, or a special permit or approval issued under subchapter A or C of this chapter is liable for a civil penalty of not more than $96,624 for each violation, except the maximum civil penalty is $225,455 if the violation results in death, serious illness, or severe injury to any person or substantial destruction of property. There is no minimum civil penalty, except for a minimum civil penalty of $582 for a violation relating to training.

PART 190—PIPELINE SAFETY ENFORCEMENT AND REGULATORY PROCEDURES

■ 22. The authority citation for part 190 continues to read as follows:

Authority: 33 U.S.C. 1321(b); 49 U.S.C. 60101 *et seq.*

■ 23. Amend § 190.223 by revising paragraphs (a), (c), and (d) to read as follows:

§ 190.223 Maximum penalties.

(a) Any person found to have violated a provision of 49 U.S.C. 60101, *et seq.,* or any regulation in 49 CFR parts 190 through 199, or order issued pursuant to 49 U.S.C. 60101, *et seq.* or 49 CFR part 190, is subject to an administrative civil penalty not to exceed $257,664 for each violation for each day the violation continues, with a maximum administrative civil penalty not to exceed $2,576,627 for any related series of violations.

* * * * *

(c) Any person found to have violated any standard or order under 49 U.S.C. 60103 is subject to an administrative civil penalty not to exceed $94,128, which may be in addition to other penalties to which such person may be subject under paragraph (a) of this section.

(d) Any person who is determined to have violated any standard or order under 49 U.S.C. 60129 is subject to an administrative civil penalty not to exceed $1,496, which may be in addition to other penalties to which such person may be subject under paragraph (a) of this section.

* * * * *

PART 209—RAILROAD SAFETY ENFORCEMENT PROCEDURES

■ 24. The authority citation for part 209 continues to read as follows:

Authority: 49 U.S.C. 5123, 5124, 20103, 20107, 20111, 20112, 20114; 28 U.S.C. 2461 note; and 49 CFR 1.89.

■ 25. Amend § 209.103 by revising paragraphs (a) and (c) to read as follows:

§ 209.103 Minimum and maximum penalties.

(a) A person who knowingly violates a requirement of the Federal hazardous materials transportation laws, an order issued thereunder, subchapter A or C of chapter I, subtitle B, of this title, or a special permit or approval issued under subchapter A or C of chapter I, subtitle B, of this title is liable for a civil penalty of not more than $96,624 for each violation, except that—

(1) The maximum civil penalty for a violation is $225,455 if the violation results in death, serious illness, or severe injury to any person, or substantial destruction of property; and

(2) A minimum $582 civil penalty applies to a violation related to training.

* * * * *

(c) The maximum and minimum civil penalties described in paragraph (a) of this section apply to violations occurring on or after January 6, 2023.

■ 26. Amend § 209.105 by revising the last sentence of paragraph (c) to read as follows:

§ 209.105 Notice of probable violation.

* * * * *

(c) * * * In an amended notice, FRA may change the civil penalty amount proposed to be assessed up to and including the maximum penalty amount of $96,624 for each violation, except that if the violation results in death,

serious illness or severe injury to any person, or substantial destruction of property, FRA may change the penalty amount proposed to be assessed up to and including the maximum penalty amount of $225,455.

§ 209.409 [Amended]

■ 27. Amend § 209.409 as follows:
■ a. Remove the dollar amount ''$976'' and add in its place ''$1,052'';
■ b. Remove the dollar amount ''$31,928'' and add in its place ''$34,401''; and
■ c. Remove the dollar amount ''$127,712'' and add in its place ''$137,603''.

■ 28. Amend appendix A to part 209 in the section ''Penalty Schedules; Assessment of Maximum Penalties'' by:
■ a. Adding a sentence at the end of the sixth paragraph;
■ b. Revising the fourth sentence in the seventh paragraph; and
■ c. Revising the first sentence of the tenth paragraph.

The addition and revisions read as follows:

Appendix A to Part 209—Statement of Agency Policy Concerning Enforcement of the Federal Railroad Safety Laws

* * * * *

Penalty Schedules; Assessment of Maximum Penalties

* * * * *

* * * Effective January 6, 2023, the minimum civil monetary penalty was raised from $976 to $1,052, the ordinary maximum civil monetary penalty was raised from $31,928 to $34,401, and the aggravated maximum civil monetary penalty was raised from $127,712 to $137,603.

* * * For each regulation in this part or order, the schedule shows two amounts within the $1,052 to $34,401 range in separate columns, the first for ordinary violations, the second for willful violations (whether committed by railroads or individuals). * * *

* * * * *

Accordingly, under each of the schedules (ordinarily in a footnote), and regardless of the fact that a lesser amount might be shown in both columns of the schedule, FRA reserves the right to assess the statutory maximum penalty of up to $137,603 per violation where a pattern of repeated violations or a grossly negligent violation has created an imminent hazard of death or injury or has caused death or injury. * * *

* * * * *

Appendix B to Part 209 [Amended]

■ 29. Amend appendix B to part 209 as follows:
■ a. Remove the dollar amount ''$89,678'' everywhere it appears and add in its place ''$96,624'';
■ b. Remove the dollar amount ''$209,249'' everywhere it appears and add in its place ''$225,455''; and
■ c. Remove the dollar amount ''$540'' and add in its place ''$582''.

PART 213—TRACK SAFETY STANDARDS

■ 30. The authority citation for part 213 continues to read as follows:

Authority: 49 U.S.C. 20102–20114 and 20142; 28 U.S.C. 2461 note; and 49 CFR 1.89.

§ 213.15 [Amended]

■ 31. Amend § 213.15 in paragraph (a) as follows:
■ a. Remove the dollar amount ''$976'' and add in its place ''$1,052'';
■ b. Remove the dollar amount ''$31,928'' and add in its place ''$34,401''; and
■ c. Remove the dollar amount ''$127,712'' and add in its place ''$137,603''.

PART 214—RAILROAD WORKPLACE SAFETY

■ 32. The authority citation for part 214 continues to read as follows:

Authority: 49 U.S.C. 20102–20103, 20107, 21301–21302, 31304; 28 U.S.C. 2461 note; and 49 CFR 1.89.

§ 214.5 [Amended]

■ 33. Amend § 214.5 as follows:
■ a. Remove the dollar amount ''$976'' and add in its place ''$1,052'';
■ b. Remove the dollar amount ''$31,928'' and add in its place ''$34,401''; and
■ c. Remove the dollar amount ''$127,712'' and add in its place ''$137,603''.

PART 215—RAILROAD FREIGHT CAR SAFETY STANDARDS

■ 34. The authority citation for part 215 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107; 28 U.S.C. 2461 note; and 49 CFR 1.89.

§ 215.7 [Amended]

■ 35. Amend § 215.7 as follows:
■ a. Remove the dollar amount ''$976'' and add in its place ''$1,052'';
■ b. Remove the dollar amount ''$31,928'' and add in its place ''$34,401''; and
■ c. Remove the dollar amount ''$127,712'' and add in its place ''$137,603''.

PART 216—SPECIAL NOTICE AND EMERGENCY ORDER PROCEDURES: RAILROAD TRACK, LOCOMOTIVE AND EQUIPMENT

■ 36. The authority citation for part 216 continues to read as follows:

Authority: 49 U.S.C. 20102–20104, 20107, 20111, 20133, 20701–20702, 21301–21302, 21304; 28 U.S.C. 2461 note; and 49 CFR 1.89.

§ 216.7 [Amended]

■ 37. Amend § 216.7 as follows:
■ a. Remove the dollar amount ''$976'' and add in its place ''$1,052'';
■ b. Remove the dollar amount ''$31,928'' and add in its place ''$34,401''; and
■ c. Remove the dollar amount ''$127,712'' and add in its place ''$137,603''.

PART 217—RAILROAD OPERATING RULES

■ 37. The authority citation for part 217 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107; 28 U.S.C. 2461 note; and 49 CFR 1.89.

§ 217.5 [Amended]

■ 38. Amend § 217.5 as follows:
■ a. Remove the dollar amount ''$976'' and add in its place ''$1,052'';
■ b. Remove the dollar amount ''$31,928'' and add in its place ''$34,401''; and
■ c. Remove the dollar amount ''$127,712'' and add in its place ''$137,603''.

PART 218—RAILROAD OPERATING PRACTICES

■ 39. The authority citation for part 218 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107, 20131, 20138, 20144, 20168; 28 U.S.C. 2461 note; and 49 CFR 1.89.

§ 218.9 [Amended]

■ 40. Amend § 218.9 as follows:
■ a. Remove the dollar amount ''$976'' and add in its place ''$1,052'';
■ b. Remove the dollar amount ''$31,928'' and add in its place ''$34,401''; and
■ c. Remove the dollar amount ''$127,712'' and add in its place ''$137,603''.

PART 219—CONTROL OF ALCOHOL AND DRUG USE

■ 41. The authority citation for part 219 is revised to read as follows:

Authority: 49 U.S.C. 20103, 20107, 20140, 21301, 21304, 21311; 28 U.S.C. 2461 note; Div. A, Sec. 412, Pub. L. 110–432, 122 Stat.

4889 (49 U.S.C. 20140 note); Sec. 8102, Pub. L. 115–271, 132 Stat. 3894; and 49 CFR 1.89.

§ 219.10 [Amended]

■ 42. Amend § 219.10 as follows:
■ a. Remove the dollar amount ''$976'' and add in its place ''$1,052'';
■ b. Remove the dollar amount ''$31,928'' and add in its place ''$34,401''; and
■ c. Remove the dollar amount ''$127,712'' and add in its place ''$137,603''.

PART 220—RAILROAD COMMUNICATIONS

■ 43. The authority citation for part 220 continues to read as follows:

Authority: 49 U.S.C. 20102–20103, 20103, note, 20107, 21301–21302, 20701–20703, 21304, 21311; 28 U.S.C. 2461 note; and 49 CFR 1.89.

§ 220.7 [Amended]

■ 44. Amend § 220.7 as follows:
■ a. Remove the dollar amount ''$976'' and add in its place ''$1,052'';
■ b. Remove the dollar amount ''$31,928'' and add in its place ''$34,401''; and
■ c. Remove the dollar amount ''$127,712'' and add in its place ''$137,603''.

PART 221—REAR END MARKING DEVICE—PASSENGER, COMMUTER AND FREIGHT TRAINS

■ 45. The authority citation for part 221 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107; 28 U.S.C. 2461 note; and 49 CFR 1.89.

§ 221.7 [Amended]

■ 46. Amend § 221.7 as follows:
■ a. Remove the dollar amount ''$976'' and add in its place ''$1,052'';
■ b. Remove the dollar amount ''$31,928'' and add in its place ''$34,401''; and
■ c. Remove the dollar amount ''$127,712'' and add in its place ''$137,603''.

PART 222—USE OF LOCOMOTIVE HORNS AT PUBLIC HIGHWAY-RAIL GRADE CROSSINGS

■ 47. The authority citation for part 222 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107, 20153, 21301, 21304; 28 U.S.C. 2461 note; and 49 CFR 1.89.

§ 222.11 [Amended]

■ 48. Amend § 222.11 as follows:
■ a. Remove the dollar amount ''$976'' and add in its place ''$1,052'';
■ b. Remove the dollar amount ''$31,928'' and add in its place ''$34,401''; and
■ c. Remove the dollar amount ''$127,712'' and add in its place ''$137,603''.

PART 223—SAFETY GLAZING STANDARDS—LOCOMOTIVES, PASSENGER CARS AND CABOOSES

■ 49. The authority citation for part 223 continues to read as follows:

Authority: 49 U.S.C. 20102–20103, 20133, 20701–20702, 21301–21302, 21304; 28 U.S.C. 2461 note; and 49 CFR 1.89.

§ 223.7 [Amended]

■ 50. Amend § 223.7 as follows:
■ a. Remove the dollar amount ''$976'' and add in its place ''$1,052'';
■ b. Remove the dollar amount ''$31,928'' and add in its place ''$34,401''; and
■ c. Remove the dollar amount ''$127,712'' and add in its place ''$137,603''.

PART 224—REFLECTORIZATION OF RAIL FREIGHT ROLLING STOCK

■ 51. The authority citation for part 224 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107, 20148 and 21301; 28 U.S.C. 2461 note; and 49 CFR 1.89.

§ 224.11 [Amended]

■ 52. Amend § 224.11 in paragraph (a) as follows:
■ a. Remove the dollar amount ''$976'' and add in its place ''$1,052'';
■ b. Remove the dollar amount ''$31,928'' and add in its place ''$34,401''; and
■ c. Remove the dollar amount ''$127,712'' and add in its place ''$137,603''.

PART 225—RAILROAD ACCIDENTS/INCIDENTS: REPORTS CLASSIFICATION, AND INVESTIGATIONS

■ 53. The authority citation for part 225 is continues to read as follows:

Authority: 49 U.S.C. 103, 322(a), 20103, 20107, 20901–20902, 21301, 21302, 21311; 28 U.S.C. 2461 note; and 49 CFR 1.89.

§ 225.29 [Amended]

■ 54. Amend § 225.29 as follows:
■ a. Remove the dollar amount ''$976'' and add in its place ''$1,052'';
■ b. Remove the dollar amount ''$31,928'' and add in its place ''$34,401''; and
■ c. Remove the dollar amount ''$127,712'' and add in its place ''$137,603''.

PART 227—OCCUPATIONAL NOISE EXPOSURE

■ 55. The authority citation for part 227 continues to read as follows:

Authority: 49 U.S.C. 20103, 20103, note, 20701–20702; 28 U.S.C. 2461 note; and 49 CFR 1.89.

§ 227.9 [Amended]

■ 56. Amend § 227.9 in paragraph (a) as follows:
■ a. Remove the dollar amount ''$976'' and add in its place ''$1,052'';
■ b. Remove the dollar amount ''$31,928'' and add in its place ''$34,401''; and
■ c. Remove the dollar amount ''$127,712'' and add in its place ''$137,603''.

PART 228—PASSENGER TRAIN EMPLOYEE HOURS OF SERVICE; RECORDKEEPING AND REPORTING; SLEEPING QUARTERS

■ 57. The authority citation for part 228 continues to read as follows:

Authority: 49 U.S.C. 103, 20103, 20107, 21101–21109; 49 U.S.C. 21301, 21303, 21304, 21311; 28 U.S.C. 2461 note; and 49 CFR 1.89.

§ 228.6 [Amended]

■ 58. Amend § 228.6 in paragraph (a) as follows:
■ a. Remove the dollar amount ''$976'' and add in its place ''$1,052'';
■ b. Remove the dollar amount ''$31,928'' and add in its place ''$34,401''; and
■ c. Remove the dollar amount ''$127,712'' and add in its place ''$137,603''.

■ 59. Amend appendix A to part 228, under the heading ''General Provisions,'' in the ''Penalty'' paragraph by adding a sentence at the end of the first paragraph to read as follows:

Appendix A to Part 228—Requirements of the Hours of Service Act: Statement of Agency Policy and Interpretation

* * * * *

General Provisions

* * * * *

Penalty. * * * Effective January 6, 2023, the minimum civil monetary penalty was raised from $976 to $1,052, the ordinary maximum civil monetary penalty was raised from $31,928 to $34,401, and the aggravated maximum civil monetary penalty was raised from $127,712 to $137,603.

* * * * *

PART 229—RAILROAD LOCOMOTIVE SAFETY STANDARDS

■ 60. The authority citation for part 229 continues to read as follows:

Authority: 49 U.S.C. 103, 322(a), 20103, 20107, 20901–02, 21301, 21302, 21311; 28 U.S.C. 2461 note; and 49 CFR 1.89.

§ 229.7 [Amended]

■ 61. Amend § 229.7 in paragraph (b) as follows:
■ a. Remove the dollar amount ''$976'' and add in its place ''$1,052'';
■ b. Remove the dollar amount ''$31,928'' and add in its place ''$34,401''; and
■ c. Remove the dollar amount ''$127,712'' and add in its place ''$137,603''.

PART 230—STEAM LOCOMOTIVE INSPECTION AND MAINTENANCE STANDARDS

■ 62. The authority citation for part 230 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107, 20702; 28 U.S.C. 2461 note; and 49 CFR 1.89.

§ 230.4 [Amended]

■ 63. Amend § 230.4 in paragraph (a) as follows:
■ a. Remove the dollar amount ''$976'' and add in its place ''$1,052'';
■ b. Remove the dollar amount ''$31,928'' and add in its place ''$34,401''; and
■ c. Remove the dollar amount ''$127,712'' and add in its place ''$137,603''.

PART 231—RAILROAD SAFETY APPLIANCE STANDARDS

■ 64. The authority citation for part 231 continues to read as follows:

Authority: 49 U.S.C. 20102–20103, 20107, 20131, 20301–20303, 21301–21302, 21304; 28 U.S.C. 2461 note; and 49 CFR 1.89.

§ 231.0 [Amended]

■ 65. Amend § 231.0 in paragraph (f) as follows:
■ a. Remove the dollar amount ''$976'' and add in its place ''$1,052'';
■ b. Remove the dollar amount ''$31,928'' and add in its place ''$34,401''; and
■ c. Remove the dollar amount ''$127,712'' and add in its place ''$137,603''.

PART 233—SIGNAL SYSTEMS REPORTING REQUIREMENTS

■ 66. The authority citation for part 233 continues to read as follows:

Authority: 49 U.S.C. 504, 522, 20103, 20107, 20501–20505, 21301, 21302, 21311; 28 U.S.C. 2461 note; and 49 CFR 1.89.

§ 233.11 [Amended]

■ 67. Amend § 233.11 as follows:
■ a. Remove the dollar amount ''$976'' and add in its place ''$1,052'';
■ b. Remove the dollar amount ''$31,928'' and add in its place ''$34,401''; and
■ c. Remove the dollar amount ''$127,712'' and add in its place ''$137,603''.

PART 234—GRADE CROSSING SAFETY

■ 68. The authority citation for part 234 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107, 20152, 20160, 21301, 21304, 21311, 22907 note; 28 U.S.C. 2461 note; and 49 CFR 1.89.

§ 234.6 [Amended]

■ 69. Amend § 234.6 in paragraph (a) as follows:
■ a. Remove the dollar amount ''$976'' and add in its place ''$1,052'';
■ b. Remove the dollar amount ''$31,928'' and add in its place ''$34,401''; and
■ c. Remove the dollar amount ''$127,712'' and add in its place ''$137,603''.

PART 235—INSTRUCTIONS GOVERNING APPLICATIONS FOR APPROVAL OF A DISCONTINUANCE OR MATERIAL MODIFICATION OF A SIGNAL SYSTEM OR RELIEF FROM THE REQUIREMENTS OF PART 236

■ 70. The authority citation for part 235 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107; 28 U.S.C. 2461 note; and 49 CFR 1.89.

§ 235.9 [Amended]

■ 71. Amend § 235.9 as follows:
■ a. Remove the dollar amount ''$976'' and add in its place ''$1,052'';
■ b. Remove the dollar amount ''$31,928'' and add in its place ''$34,401''; and
■ c. Remove the dollar amount ''$127,712'' and add in its place ''$137,603''.

PART 236—RULES, STANDARDS, AND INSTRUCTIONS GOVERNING THE INSTALLATION, INSPECTION, MAINTENANCE, AND REPAIR OF SIGNAL AND TRAIN CONTROL SYSTEMS, DEVICES, AND APPLIANCES

■ 72. The authority citation for part 236 continues to read as follows:

Authority: 49 U.S.C. 20102–20103, 20107, 20133, 20141, 20157, 20301–20303, 20306, 20501–20505, 20701–20703, 21301–21302, 21304; 28 U.S.C. 2461 note; and 49 CFR 1.89.

§ 236.0 [Amended]

■ 73. Amend § 236.0 in paragraph (f) as follows:
■ a. Remove the dollar amount ''$976'' and add in its place ''$1,052'';
■ b. Remove the dollar amount ''$31,928'' and add in its place ''$34,401''; and
■ c. Remove the dollar amount ''$127,712'' and add in its place ''$137,603''.

PART 237—BRIDGE SAFETY STANDARDS

■ 74. The authority citation for part 237 continues to read as follows:

Authority: 49 U.S.C. 20102–20114; 28 U.S.C. 2461 note; Div. A, Sec. 417, Pub. L. 110–432, 122 Stat. 4848; and 49 CFR 1.89.

§ 237.7 [Amended]

■ 75. Amend § 237.7 in paragraph (a) as follows:
■ a. Remove the dollar amount ''$976'' and add in its place ''$1,052'';
■ b. Remove the dollar amount ''$31,928'' and add in its place ''$34,401''; and
■ c. Remove the dollar amount ''$127,712'' and add in its place ''$137,603''.

PART 238—PASSENGER EQUIPMENT SAFETY STANDARDS

■ 76. The authority citation for part 238 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107, 20133, 20141, 20302–20303, 20306, 20701–20702, 21301–21302, 21304; 28 U.S.C. 2461 note; and 49 CFR 1.89.

§ 238.11 [Amended]

■ 77. Amend § 238.11 in paragraph (a) as follows:
■ a. Remove the dollar amount ''$976'' and add in its place ''$1,052'';
■ b. Remove the dollar amount ''$31,928'' and add in its place ''$34,401''; and
■ c. Remove the dollar amount ''$127,712'' and add in its place ''$137,603''.

PART 239—PASSENGER TRAIN EMERGENCY PREPAREDNESS

■ 78. The authority citation for part 239 continues to read as follows:

Authority: 49 U.S.C. 20102–20103, 20105–20114, 20133, 21301, 21304, and 21311; 28 U.S.C. 2461 note; and 49 CFR 1.89.

§ 239.11 [Amended]

■ 79. Amend § 239.11 as follows:
■ a. Remove the dollar amount ''$976'' and add in its place ''$1,052'';
■ b. Remove the dollar amount ''$31,928'' and add in its place ''$34,401''; and
■ c. Remove the dollar amount ''$127,712'' and add in its place ''$137,603''.

PART 240—QUALIFICATION AND CERTIFICATION OF LOCOMOTIVE ENGINEERS

■ 80. The authority citation for part 240 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107, 20135, 21301, 21304, 21311; 28 U.S.C. 2461 note; and 49 CFR 1.89.

§ 240.11 [Amended]

■ 81. Amend § 240.11 in paragraph (a) as follows:

■ a. Remove the dollar amount ''$976'' and add in its place ''$1,052'';

■ b. Remove the dollar amount ''$31,928'' and add in its place ''$34,401''; and

■ c. Remove the dollar amount ''$127,712'' and add in its place ''$137,603.

PART 241—UNITED STATES LOCATIONAL REQUIREMENT FOR DISPATCHING OF UNITED STATES RAIL OPERATIONS

■ 82. The authority citation for part 241 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107, 21301, 21304, 21311; 28 U.S.C. 2461 note; 49 CFR 1.89.

§ 241.15 [Amended]

■ 83. Amend § 241.15 in paragraph (a) as follows:

■ a. Remove the dollar amount ''$976'' and add in its place ''$1,052'';

■ b. Remove the dollar amount ''$31,928'' and add in its place ''$34,401''; and

■ c. Remove the dollar amount ''$127,712'' and add in its place ''$137,603''.

PART 242—QUALIFICATION AND CERTIFICATION OF CONDUCTORS

■ 84. The authority citation for part 242 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107, 20135, 20138, 20162, 20163, 21301, 21304, 21311; 28 U.S.C. 2461 note; and 49 CFR 1.89.

§ 242.11 [Amended]

■ 85. Amend § 242.11 in paragraph (a) as follows:

■ a. Remove the dollar amount ''$976'' and add in its place ''$1,052'';

■ b. Remove the dollar amount ''$31,928'' and add in its place ''$34,401''; and

■ c. Remove the dollar amount ''$127,712'' and add in its place ''$137,603''.

PART 243—TRAINING, QUALIFICATION, AND OVERSIGHT FOR SAFETY-RELATED RAILROAD EMPLOYEES

■ 86. The authority citation for part 243 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107, 20131–20155, 20162, 20301–20306, 20701–20702, 21301–21304, 21311; 28 U.S.C. 2461 note; and 49 CFR 1.89.

§ 243.7 [Amended]

■ 87. Amend § 243.7 in paragraph (a) as follows:

■ a. Remove the dollar amount ''$976'' and add in its place ''$1,052'';

■ b. Remove the dollar amount ''$31,928'' and add in its place ''$34,401''; and

■ c. Remove the dollar amount ''$127,712'' and add in its place ''$137,603''.

PART 244—REGULATIONS ON SAFETY INTEGRATION PLANS GOVERNING RAILROAD CONSOLIDATIONS, MERGERS, AND ACQUISITIONS OF CONTROL

■ 88. The authority citation for part 244 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107, 21301; 5 U.S.C. 553 and 559; 28 U.S.C. 2461 note; and 49 CFR 1.89.

§ 244.5 [Amended]

■ 89. Amend § 244.5 in paragraph (a) as follows:

■ a. Remove the dollar amount ''$976'' and add in its place ''$1,052'';

■ b. Remove the dollar amount ''$31,928'' and add in its place ''$34,401''; and

■ c. Remove the dollar amount ''$127,712'' and add in its place ''$137,603''.

PART 272—CRITICAL INCIDENT STRESS PLANS

■ 90. The authority citation for part 272 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107, 20109 note; 28 U.S.C. 2461 note; and 4 CFR 1.89.

§ 272.11 [Amended]

■ 91. Amend § 272.11 in paragraph (a) as follows:

■ a. Remove the dollar amount ''$976'' and add in its place ''$1,052'';

■ b. Remove the dollar amount ''$31,928'' and add in its place ''$34,401''; and

■ c. Remove the dollar amount ''$127,712'' and add in its place ''$137,603''.

PART 386—RULES OF PRACTICE FOR FMCSA PROCEEDINGS

■ 92. The authority citation for part 386 continues to read as follows:

Authority: 28 U.S.C. 2461 note; 49 U.S.C. 113, 1301 note, 31306a; 49 U.S.C. chapters 5, 51, 131–141, 145–149, 311, 313, and 315; and 49 CFR 1.81, 1.87.

■ 93. Amend appendix A to part 386 by revising section II and section IV.a. through e. and g. through j. to read as follows:

Appendix A to Part 386—Penalty Schedule: Violations of Notices and Orders

* * * * *

II. Subpoena

Violation—Failure to respond to Agency subpoena to appear and testify or produce records.

Penalty—minimum of $1,288 but not more than $12,882 per violation.

* * * * *

IV. Out-of-Service Order

a. Violation—Operation of a commercial vehicle by a driver during the period the driver was placed out of service.

Penalty—Up to $2,232 per violation.

(For purposes of this violation, the term ''driver'' means an operator of a commercial motor vehicle, including an independent contractor who, while in the course of operating a commercial motor vehicle, is employed or used by another person.)

b. Violation—Requiring or permitting a driver to operate a commercial vehicle during the period the driver was placed out of service.

Penalty—Up to $22,324 per violation.

(This violation applies to motor carriers including an independent contractor who is not a ''driver,'' as defined under paragraph IV(a) above.)

c. Violation—Operation of a commercial motor vehicle or intermodal equipment by a driver after the vehicle or intermodal equipment was placed out-of-service and before the required repairs are made.

Penalty—$2,232 each time the vehicle or intermodal equipment is so operated. (This violation applies to drivers as defined in IV(a) above.)

d. Violation—Requiring or permitting the operation of a commercial motor vehicle or intermodal equipment placed out-of-service before the required repairs are made.

Penalty—Up to $22,324 each time the vehicle or intermodal equipment is so operated after notice of the defect is received.

(This violation applies to intermodal equipment providers and motor carriers, including an independent owner operator who is not a ''driver,'' as defined in IV(a) above.)

e. Violation—Failure to return written certification of correction as required by the out-of-service order.

Penalty—Up to $1,116 per violation.

* * * * *

g. Violation—Operating in violation of an order issued under § 386.72(b) to cease all or part of the employer's commercial motor vehicle operations or to cease part of an intermodal equipment provider's operations, *i.e.,* failure to cease operations as ordered.

Penalty—Up to $32,208 per day the operation continues after the effective date and time of the order to cease.

h. Violation—Operating in violation of an order issued under § 386.73.

Penalty—Up to $31,536 per day the operation continues after the effective date and time of the out-of-service order.

i. Violation—Conducting operations during a period of suspension under § 386.83 or § 386.84 for failure to pay penalties.

Penalty—Up to $18,170 for each day that operations are conducted during the suspension or revocation period.

j. Violation—Conducting operations during a period of suspension or revocation under § 385.911, § 385.913, § 385.1009, or § 385.1011 of this subchapter.

Penalty—Up to $31,536 for each day that operations are conducted during the suspension or revocation period.

■ 94. Amend appendix B to part 386 by revising paragraphs (a)(1) through (5), (b), (d) through (f), (g)(1) through (8), (10) through (14), and (16) through (18), (g)(21)(i), (g)(22) and (23), (h), and (i) to read as follows:

Appendix B to Part 386—Penalty Schedule: Violations and Monetary Penalties

* * * * *

What are the types of violations and maximum monetary penalties?

(a) * * *

(1) *Recordkeeping.* A person or entity that fails to prepare or maintain a record required by part 40 of this title and parts 382, subpart A, B, C, D, E, or F, 385, and 390 through 399 of this subchapter, or prepares or maintains a required record that is incomplete, inaccurate, or false, is subject to a maximum civil penalty of $1,496 for each day the violation continues, up to $14,960.

(2) *Knowing falsification of records.* A person or entity that knowingly falsifies, destroys, mutilates, or changes a report or record required by parts 382, subpart A, B, C, D, E, or F, 385, and 390 through 399 of this subchapter, knowingly makes or causes to be made a false or incomplete record about an operation or business fact or transaction, or knowingly makes, prepares, or preserves a record in violation of a regulation order of the Secretary is subject to a maximum civil penalty of $14,960 if such action misrepresents a fact that constitutes a violation other than a reporting or recordkeeping violation.

(3) *Non-recordkeeping violations.* A person or entity that violates part 382, subpart A, B, C, D, E, or F, part 385, or parts 390 through 399 of this subchapter, except a recordkeeping requirement, is subject to a civil penalty not to exceed $18,170 for each violation.

(4) *Non-recordkeeping violations by drivers.* A driver who violates parts 382, subpart A, B, C, D, E, or F, 385, and 390 through 399 of this subchapter, except a recordkeeping violation, is subject to a civil penalty not to exceed $4543.

(5) *Violation of 49 CFR 392.5.* A driver placed out of service for 24 hours for violating the alcohol prohibitions of 49 CFR 392.5(a) or (b) who drives during that period is subject to a civil penalty not to exceed $3740 for a first conviction and not less than $7481 for a second or subsequent conviction.

* * * * *

(b) *Commercial driver's license (CDL) violations.* Any employer, employee, medical review officer, or service agent who violates any provision of 49 CFR part 382, subpart G, or any person who violates 49 CFR part 383, subpart B, C, E, F, G, or H, is subject to a civil penalty not to exceed $6,755; except:

(1) A CDL-holder who is convicted of violating an out-of-service order shall be subject to a civil penalty of not less than $3740 for a first conviction and not less than $7481 for a second or subsequent conviction;

(2) An employer of a CDL-holder who knowingly allows, requires, permits, or authorizes an employee to operate a CMV during any period in which the CDL-holder is subject to an out-of-service order, is subject to a civil penalty of not less than $6,755 or more than $37,400; and

(3) An employer of a CDL–holder who knowingly allows, requires, permits, or authorizes that CDL-holder to operate a CMV in violation of a Federal, State, or local law or regulation pertaining to railroad-highway grade crossings is subject to a civil penalty of not more than $19,389.

* * * * *

(d) *Financial responsibility violations.* A motor carrier that fails to maintain the levels of financial responsibility prescribed by part 387 of this subchapter or any person (except an employee who acts without knowledge) who knowingly violates the rules of part 387, subparts A and B, is subject to a maximum penalty of $19,933. Each day of a continuing violation constitutes a separate offense.

(e) *Violations of the Hazardous Materials Regulations (HMRs) and safety permitting regulations found in subpart E of part 385 of this subchapter.* This paragraph (e) applies to violations by motor carriers, drivers, shippers and other persons who transport hazardous materials on the highway in commercial motor vehicles or cause hazardous materials to be so transported.

(1) All knowing violations of 49 U.S.C. chapter 51 or orders or regulations issued under the authority of that chapter applicable to the transportation or shipment of hazardous materials by commercial motor vehicle on the highways are subject to a civil penalty of not more than $96,624 for each violation. Each day of a continuing violation constitutes a separate offense.

(2) All knowing violations of 49 U.S.C. chapter 51 or orders or regulations issued under the authority of that chapter applicable to training related to the transportation or shipment of hazardous materials by commercial motor vehicle on the highways are subject to a civil penalty of not less than $582 and not more than $96,624 for each violation.

(3) All knowing violations of 49 U.S.C. chapter 51 or orders, regulations, or exemptions under the authority of that chapter applicable to the manufacture, fabrication, marking, maintenance, reconditioning, repair, or testing of a packaging or container that is represented, marked, certified, or sold as being qualified for use in the transportation or shipment of hazardous materials by commercial motor vehicle on the highways are subject to a civil penalty of not more than $96,624 for each violation.

(4) Whenever regulations issued under the authority of 49 U.S.C. chapter 51 require compliance with the FMCSRs while transporting hazardous materials, any violations of the FMCSRs will be considered a violation of the HMRs and subject to a civil penalty of not more than $96,624.

(5) If any violation subject to the civil penalties set out in paragraphs (e)(1) through (4) of this appendix results in death, serious illness, or severe injury to any person or in substantial destruction of property, the civil penalty may be increased to not more than $225,455 for each offense.

(f) *Operating after being declared unfit by assignment of a final ''unsatisfactory'' safety rating.* (1) A motor carrier operating a commercial motor vehicle in interstate commerce (except owners or operators of commercial motor vehicles designed or used to transport hazardous materials for which placarding of a motor vehicle is required under regulations prescribed under 49 U.S.C. chapter 51) is subject, after being placed out of service because of receiving a final ''unsatisfactory'' safety rating, to a civil penalty of not more than $32,208 (49 CFR 385.13). Each day the transportation continues in violation of a final ''unsatisfactory'' safety rating constitutes a separate offense.

(2) A motor carrier operating a commercial motor vehicle designed or used to transport hazardous materials for which placarding of a motor vehicle is required under regulations prescribed under 49 U.S.C. chapter 51 is subject, after being placed out of service because of receiving a final ''unsatisfactory'' safety rating, to a civil penalty of not more than $96,624 for each offense. If the violation results in death, serious illness, or severe injury to any person or in substantial destruction of property, the civil penalty may be increased to not more than $225,455 for each offense. Each day the transportation continues in violation of a final ''unsatisfactory'' safety rating constitutes a separate offense.

(g) * * *

(1) A person who operates as a motor carrier for the transportation of property in violation of the registration requirements of 49 U.S.C. 13901 is liable for a minimum penalty of $12,882 per violation.

(2) A person who knowingly operates as a broker in violation of registration requirements of 49 U.S.C 13904 or financial security requirements of 49 U.S.C 13906 is liable for a penalty not to exceed $12,882 for each violation.

(3) A person who operates as a motor carrier of passengers in violation of the registration requirements of 49 U.S.C. 13901

is liable for a minimum penalty of $32,208 per violation.

(4) A person who operates as a foreign motor carrier or foreign motor private carrier of property in violation of the provisions of 49 U.S.C. 13902(c) is liable for a minimum penalty of $12,882 per violation.

(5) A person who operates as a foreign motor carrier or foreign motor private carrier without authority, outside the boundaries of a commercial zone along the United States-Mexico border, is liable for a maximum penalty of $17,717 for an intentional violation and a maximum penalty of $44,294 for a pattern of intentional violations.

(6) A person who operates as a motor carrier or broker for the transportation of hazardous wastes in violation of the registration provisions of 49 U.S.C. 13901 is liable for a minimum penalty of $25,767 and a maximum penalty of $51,533 per violation.

(7) A motor carrier or freight forwarder of household goods, or their receiver or trustee, that does not comply with any regulation relating to the protection of individual shippers, is liable for a minimum penalty of $1,937 per violation.

(8) A person—

(i) Who falsifies, or authorizes an agent or other person to falsify, documents used in the transportation of household goods by motor carrier or freight forwarder to evidence the weight of a shipment; or

(ii) Who charges for services which are not performed or are not reasonably necessary in the safe and adequate movement of the shipment is liable for a minimum penalty of $3,879 for the first violation and $9,695 for each subsequent violation.

* * * * *

(10) A person who offers, gives, solicits, or receives transportation of property by a carrier at a different rate than the rate in effect under 49 U.S.C. 13702 is liable for a maximum penalty of $193,890 per violation. When acting in the scope of his/her employment, the acts or omissions of a person acting for or employed by a carrier or shipper are considered the acts or omissions of that carrier or shipper, as well as of that person.

(11) Any person who offers, gives, solicits, or receives a rebate or concession related to motor carrier transportation subject to jurisdiction under subchapter I of 49 U.S.C. chapter 135, or who assists or permits another person to get that transportation at less than the rate in effect under 49 U.S.C. 13702, commits a violation for which the penalty is $387 for the first violation and $484 for each subsequent violation.

(12) A freight forwarder, its officer, agent, or employee, that assists or willingly permits a person to get service under 49 U.S.C. 13531 at less than the rate in effect under 49 U.S.C. 13702 commits a violation for which the penalty is up to $971 for the first violation and up to $3,879 for each subsequent violation.

(13) A person who gets or attempts to get service from a freight forwarder under 49 U.S.C. 13531 at less than the rate in effect under 49 U.S.C. 13702 commits a violation for which the penalty is up to $971 for the first violation and up to $3,879 for each subsequent violation.

(14) A person who knowingly authorizes, consents to, or permits a violation of 49 U.S.C. 14103 relating to loading and unloading motor vehicles or who knowingly violates subsection (a) of 49 U.S.C. 14103 is liable for a penalty of not more than $19,389 per violation.

* * * * *

(16) A person required to make a report to the Secretary, answer a question, or make, prepare, or preserve a record under part B of subtitle IV, title 49, U.S.C., or an officer, agent, or employee of that person, is liable for a minimum penalty of $1,288 and for a maximum penalty of $9,695 per violation if it does not make the report, does not completely and truthfully answer the question within 30 days from the date the Secretary requires the answer, does not make or preserve the record in the form and manner prescribed, falsifies, destroys, or changes the report or record, files a false report or record, makes a false or incomplete entry in the record about a business-related fact, or prepares or preserves a record in violation of a regulation or order of the Secretary.

(17) A motor carrier, water carrier, freight forwarder, or broker, or their officer, receiver, trustee, lessee, employee, or other person authorized to receive information from them, who discloses information identified in 49 U.S.C. 14908 without the permission of the shipper or consignee is liable for a maximum penalty of $3,879.

(18) A person who violates a provision of part B, subtitle IV, title 49, U.S.C., or a regulation or order under part B, or who violates a condition of registration related to transportation that is subject to jurisdiction under subchapter I or III of chapter 135, or who violates a condition of registration of a foreign motor carrier or foreign motor private carrier under section 13902, is liable for a penalty of $971 for each violation if another penalty is not provided in 49 U.S.C. chapter 149.

* * * * *

(21) * * *

(i) Who knowingly and willfully fails, in violation of a contract, to deliver to, or unload at, the destination of a shipment of household goods in interstate commerce for which charges have been estimated by the motor carrier transporting such goods, and for which the shipper has tendered a payment in accordance with part 375, subpart G, of this subchapter, is liable for a civil penalty of not less than $19,389 for each violation. Each day of a continuing violation constitutes a separate offense.

* * * * *

(22) A broker for transportation of household goods who makes an estimate of the cost of transporting any such goods before entering into an agreement with a motor carrier to provide transportation of household goods subject to FMCSA jurisdiction is liable to the United States for a civil penalty of not less than $14,960 for each violation.

(23) A person who provides transportation of household goods subject to jurisdiction under 49 U.S.C. chapter 135, subchapter I, or provides broker services for such transportation, without being registered under 49 U.S.C. chapter 139 to provide such transportation or services as a motor carrier or broker, as the case may be, is liable to the United States for a civil penalty of not less than $37,400 for each violation.

(h) *Copying of records and access to equipment, lands, and buildings.* A person subject to 49 U.S.C. chapter 51 or a motor carrier, broker, freight forwarder, or owner or operator of a commercial motor vehicle subject to part B of subtitle VI of title 49 U.S.C. who fails to allow promptly, upon demand in person or in writing, the Federal Motor Carrier Safety Administration, an employee designated by the Federal Motor Carrier Safety Administration, or an employee of a MCSAP grant recipient to inspect and copy any record or inspect and examine equipment, lands, buildings, and other property, in accordance with 49 U.S.C. 504(c), 5121(c), and 14122(b), is subject to a civil penalty of not more than $1496 for each offense. Each day of a continuing violation constitutes a separate offense, except that the total of all civil penalties against any violator for all offenses related to a single violation shall not exceed $14,960.

(i) *Evasion.* A person, or an officer, employee, or agent of that person:

(1) Who by any means tries to evade regulation of motor carriers under title 49, United States Code, chapter 5, chapter 51, subchapter III of chapter 311 (except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), 31310(g)(1)(A), or 31502, or a regulation in subtitle B, chapter I, subchapter C of this title, or this subchapter, issued under any of those provisions, shall be fined at least $2577 but not more than $6247 for the first violation and at least $3219 but not more than $9,652 for a subsequent violation.

(2) Who tries to evade regulation under part B of subtitle IV, title 49, U.S.C., for carriers or brokers is liable for a penalty of at least $2,577 for the first violation or at least $6,247 for a subsequent violation.

PART 578—CIVIL AND CRIMINAL PENALTIES

■ 95. The authority citation for part 578 continues to read as follows:

Authority: Pub. L. 92–513, Pub. L. 94–163, Pub. L. 98–547, Pub. L. 101–410, Pub. L. 102–388, Pub. L. 102–519, Pub. L. 104–134, Pub. L. 109–59, Pub. L. 110–140, Pub. L. 112–141, Pub. L. 114–74, Pub. L. 114–94 (49 U.S.C. 30165, 30170, 30505, 32308, 32309, 32507, 32709, 32710, 32902, 32912, 33114, and 33115); delegation of authority at 49 CFR 1.81, 1.95.

■ 96. Amend § 578.6 by revising paragraphs (a)(1), (a)(2)(i)(B), (a)(3) and (4), (b) through (g), (h)(1), (h)(2) introductory text, (h)(3), and (i) to read as follows:

§ 578.6 Civil penalties for violations of specified provisions of Title 49 of the United States Code.

(a) * * *

(1) *In general.* A person who violates any of sections 30112, 30115, 30117

through 30122, 30123(a), 30125(c), 30127, or 30141 through 30147 of Title 49 of the United States Code or a regulation in this chapter prescribed under any of those sections is liable to the United States Government for a civil penalty of not more than $26,315 for each violation. A separate violation occurs for each motor vehicle or item of motor vehicle equipment and for each failure or refusal to allow or perform an act required by any of those sections. The maximum civil penalty under this paragraph (a)(1) for a related series of violations is $131,564,183.

(2) * * *

(i) * * *

(B) Violates section 30112(a)(2) of Title 49 United States Code, shall be subject to a civil penalty of not more than $14,960 for each violation. A separate violation occurs for each motor vehicle or item of motor vehicle equipment and for each failure or refusal to allow or perform an act required by this section. The maximum penalty under this paragraph (a)(2)(i)(B) for a related series of violations is $22,440,526.

(3) *Section 30166.* A person who violates Section 30166 of Title 49 of the United States Code or a regulation in this chapter prescribed under that section is liable to the United States Government for a civil penalty for failing or refusing to allow or perform an act required under that section or regulation. The maximum penalty under this paragraph (a)(3) is $26,315 per violation per day. The maximum penalty under this paragraph (a)(3) for a related series of daily violations is $131,564,183.

(4) *False and misleading reports.* A person who knowingly and willfully submits materially false or misleading information to the Secretary, after certifying the same information as accurate under the certification process established pursuant to Section 30166(o) of Title 49 of the United States Code, shall be subject to a civil penalty of not more than $6,441 per day. The maximum penalty under this paragraph (a)(4) for a related series of daily violations is $1,288,315.

(b) *National Automobile Title Information System.* An individual or entity violating 49 U.S.C. Chapter 305 is liable to the United States Government for a civil penalty of not more than $2,100 for each violation.

(c) *Bumper standards.* (1) A person that violates 49 U.S.C. 32506(a) is liable to the United States Government for a civil penalty of not more than $3,446 for each violation. A separate violation occurs for each passenger motor vehicle or item of passenger motor vehicle equipment involved in a violation of 49 U.S.C. 32506(a)(1) or (4)—

(i) That does not comply with a standard prescribed under 49 U.S.C. 32502; or

(ii) For which a certificate is not provided, or for which a false or misleading certificate is provided, under 49 U.S.C. 32504.

(2) The maximum civil penalty under this paragraph (c) for a related series of violations is $3,837,393.

(d) *Consumer information*—(1) *Crashworthiness and damage susceptibility.* A person who violates 49 U.S.C. 32308(a), regarding crashworthiness and damage susceptibility, is liable to the United States Government for a civil penalty of not more than $3,446 for each violation. Each failure to provide information or comply with a regulation in violation of 49 U.S.C. 32308(a) is a separate violation. The maximum penalty under this paragraph (d)(1) for a related series of violations is $1,879,489.

(2) *Consumer tire information.* Any person who fails to comply with the national tire fuel efficiency program under 49 U.S.C. 32304A is liable to the United States Government for a civil penalty of not more than $71,317 for each violation.

(e) *Country of origin content labeling.* A manufacturer of a passenger motor vehicle distributed in commerce for sale in the United States that willfully fails to attach the label required under 49 U.S.C. 32304 to a new passenger motor vehicle that the manufacturer manufactures or imports, or a dealer that fails to maintain that label as required under 49 U.S.C. 32304, is liable to the United States Government for a civil penalty of not more than $2,100 for each violation. Each failure to attach or maintain that label for each vehicle is a separate violation.

(f) *Odometer tampering and disclosure.* (1) A person that violates 49 U.S.C. Chapter 327 or a regulation in this chapter prescribed or order issued thereunder is liable to the United States Government for a civil penalty of not more than $12,882 for each violation. A separate violation occurs for each motor vehicle or device involved in the violation. The maximum civil penalty under this paragraph (f)(1) for a related series of violations is $1,288,315.

(2) A person that violates 49 U.S.C. Chapter 327 or a regulation in this chapter prescribed or order issued thereunder, with intent to defraud, is liable for three times the actual damages or $12,882, whichever is greater.

(g) *Vehicle theft protection.* (1) A person that violates 49 U.S.C. 33114(a)(1)–(4) is liable to the United States Government for a civil penalty of not more than $2,830 for each violation. The failure of more than one part of a single motor vehicle to conform to an applicable standard under 49 U.S.C. 33102 or 33103 is only a single violation. The maximum penalty under this paragraph (g)(1) for a related series of violations is $707,524.

(2) A person that violates 49 U.S.C. 33114(a)(5) is liable to the United States Government for a civil penalty of not more than $210,161 a day for each violation.

(h) * * * (1) A person that violates 49 U.S.C. 32911(a) is liable to the United States Government for a civil penalty of not more than $49,534 for each violation. A separate violation occurs for each day the violation continues.

(2) Except as provided in 49 U.S.C. 32912(c), a manufacturer that violates a standard prescribed for a model year under 49 U.S.C. 32902 is liable to the United States Government for a civil penalty of $16 (for model years before model year 2019, the civil penalty is $5.50; for model years 2019 through 2021, the civil penalty is $14; for model year 2022, the civil penalty is $15), multiplied by each .1 of a mile a gallon by which the applicable average fuel economy standard under that section exceeds the average fuel economy—

* * * * *

(3) If a higher amount for each .1 of a mile a gallon to be used in calculating a civil penalty under paragraph (h)(2) of this section is prescribed pursuant to the process provided in 49 U.S.C. 32912(c), the amount prescribed may not be more than $31 for each .1 of a mile a gallon.

(i) *Medium- and heavy-duty vehicle fuel efficiency.* The maximum civil penalty for a violation of the fuel consumption standards of 49 CFR part 535 is not more than $48,779 per vehicle or engine. The maximum civil penalty for a related series of violations shall be determined by multiplying $48,779 times the vehicle or engine production volume for the model year in question within the regulatory averaging set.

Signed in Washington, DC, on December 21, 2022.

Peter Paul Montgomery Buttigieg,

Secretary of Transportation.

[FR Doc. 2022–28580 Filed 1–5–23; 8:45 am]

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Vol. 88, No. 4

Friday, January 6, 2023

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FEDERAL REGISTER PAGES AND DATE, JANUARY

1–288	3
289–738	4
739–948	5
949–1132	6

CFR PARTS AFFECTED DURING JANUARY

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
10510 739
10511 741
10512 743

7 CFR

Proposed Rules:
920 16
985 18

8 CFR

Proposed Rules:
103 402
106 402
204 402
212 402
214 402
240 402
244 402
245 402
245a 402
264 402
274a 402

10 CFR

72 949

Proposed Rules:
30 25
40 25
50 25
70 25
72 ..... 25, 1010
430 790

12 CFR

19 289
109 289
1083 1

14 CFR

13 1114
383 1114
406 1114

Proposed Rules:
61 34
63 34
65 34

15 CFR

6 3
922 953

16 CFR

Proposed Rules:
456 248

17 CFR

Proposed Rules:
240 128
242 128

20 CFR

10 974

21 CFR

101 6
172 745
870 975
874 977
876 8
882 749
888 ..... 751, 753, 979
890 ..... 981, 983

24 CFR

Proposed Rules:
5 321
1006 328

26 CFR

301 ..... 755, 756

28 CFR

Proposed Rules:
16 1012

33 CFR

100 291
165 756
401 1114

Proposed Rules:
165 35

38 CFR

36 985
42 985

39 CFR

111 758

40 CFR

19 986
52 ..... 291, 773
81 775
180 990

Proposed Rules:
63 805
180 38
721 41

42 CFR

405 297
410 297
411 297
412 297
413 297
416 297
419 297
424 297
485 297
489 297

45 CFR

1302 993

Proposed Rules:
88.....820
2525.....1021
2526.....1021
2527.....1021
2528.....1021
2529.....1021
2530.....1021

46 CFR

221.....1114
307.....1114
340.....1114
356.....1114

47 CFR

1.....783
73.....10
Proposed Rules:
54.....1035
73.....42, 1038

49 CFR

107.....1114
171.....1114
190.....1114
209.....1114
213.....1114
214.....1114
215.....1114
216.....1114
217.....1114
218.....1114
219.....1114
220.....1114
221.....1114
222.....1114
223.....1114
224.....1114
225.....1114
227.....1114
228.....1114
229.....1114
230.....1114
231.....1114
233.....1114
234.....1114
235.....1114
236.....1114
237.....1114
238.....1114
239.....1114
240.....1114
241.....1114
242.....1114
243.....1114
244.....1114
272.....1114
386.....1114
578.....1114
1002.....299
1011.....700
1108.....700
1111.....299
1114.....299
1115.....299,700
1244.....700
Proposed Rules:
386.....830
387.....830

50 CFR

218.....604
635.....786
648.....11, 788
679.....789
Proposed Rules:
217.....916

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

Last List January 4, 2023

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