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

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Presidential Documents

Title 3—

The President

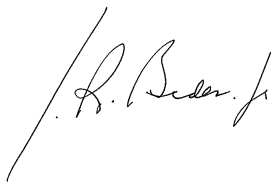
Memorandum of January 19, 2023

Delegation of Authority Under Section 506(a)(1) of the Foreign Assistance Act of 1961

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 621 of the Foreign Assistance Act of 1961 (FAA), I hereby delegate to the Secretary of State the authority under section 506(a)(1) of the FAA to direct the drawdown of up to $2.5 billion in defense articles and services of the Department of Defense, and military education and training, to provide assistance to Ukraine and to make the determinations required under such section to direct such a drawdown.

You are authorized and directed to publish this memorandum in the *Federal Register*.



THE WHITE HOUSE,
Washington, January 19, 2023

[FR Doc. 2023–01738
Filed 1–25–23; 8:45 am]
Billing code 4710–10–P

Presidential Documents

Proclamation 10516 of January 22, 2023

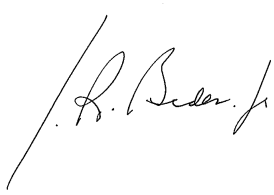
Honoring the Victims of the Tragedy in Monterey Park, California

By the President of the United States of America

A Proclamation

As a mark of respect for the victims of the senseless acts of violence perpetrated on January 21, 2023, in Monterey Park, California, by the authority vested in me as President of the United States by the Constitution and the laws of the United States of America, I hereby order that the flag of the United States shall be flown at half-staff at the White House and upon all public buildings and grounds, at all military posts and naval stations, and on all naval vessels of the Federal Government in the District of Columbia and throughout the United States and its Territories and possessions until sunset, January 26, 2023. I also direct that the flag shall be flown at half-staff for the same length of time at all United States embassies, legations, consular offices, and other facilities abroad, including all military facilities and naval vessels and stations.

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



[FR Doc. 2023–01689
Filed 1–25–23; 8:45 am]
Billing code 3395–F3–P

Presidential Documents

Memorandum of January 22, 2023

Further Efforts To Protect Access to Reproductive Healthcare Services

Memorandum for the Attorney General[,] the Secretary of Health and Human Services[, and] the Secretary of Homeland Security

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

Section 1. *Policy.* Since 2000, the medication mifepristone has been approved by the Food and Drug Administration (FDA) for use in the United States as a safe and effective method to end early pregnancy.

The Food and Drug Administration Amendments Act of 2007 (Public Law 110–85) requires the FDA, working with drug manufacturers, to specify conditions for the use of certain drugs after considering six congressionally mandated factors. The Act sets forth a detailed administrative process to develop such conditions for use, known collectively as the Risk Evaluation and Mitigation Strategies (REMS), for individual drugs. Mifepristone has long had a REMS specifying the conditions for its use.

On January 3, 2023, the FDA, after an independent and comprehensive review of the risks and benefits of the drug, modified the REMS for mifepristone. The FDA took evidence-based action that supports access to mifepristone by helping ensure that healthcare providers and patients can continue to use telehealth to prescribe and receive mifepristone by mail after the end of the COVID–19 public health emergency. During the COVID–19 public health emergency, the FDA stopped enforcing a prior requirement that mifepristone be dispensed in person, and the FDA's January 2023 REMS permanently removed the in-person dispensing requirement. Additionally, pharmacies can now choose to become certified to dispense mifepristone to patients. These changes seek to reduce the burden on the healthcare delivery system while ensuring the benefits of the medication outweigh the risks. These changes also help ensure that patients can access mifepristone similarly to how they would access other prescribed medications.

In the wake of the new REMS for mifepristone, there have been reports of efforts to suppress access to medication abortion. Some State officials have announced that they will impose restrictions to limit access to this evidence-based, safe, and effective medication. In a letter to the FDA, for example, 22 State Attorneys General threatened to enforce State laws that purport to interfere with access to mifepristone. In Florida, the Governor recently said that major pharmacy chains in the State will not offer mifepristone. Florida health officials issued guidance discouraging pharmacies from dispensing mifepristone, claiming that State law limits where abortion medication can be provided to hospitals, clinics, or physician offices. These actions have stoked confusion, sowed fear, and may prevent patients from accessing safe and effective FDA-approved medication.

At the same time, those who provide reproductive healthcare continue to face heightened safety concerns. There are reports that some have vowed to make people uncomfortable entering pharmacies that dispense mifepristone.

In Executive Order 14076 of July 8, 2022 (Protecting Access to Reproductive Healthcare Services), I directed the Secretary of Health and Human Services

(HHS) to identify potential actions to protect and expand access to abortion care, including medication abortion. In that order, I directed the Attorney General and the Secretary of Homeland Security to consider actions, as appropriate and consistent with applicable law, that would protect the safety and security of patients, providers, and third parties, and that would protect the security of pharmacies and other entities providing, dispensing, or delivering reproductive and related healthcare services.

Since the issuance of Executive Order 14076, my Administration has taken steps to clarify the protections available to those who seek reproductive health services. The Department of Justice announced the formation of a Reproductive Rights Task Force, which, among other things, is focused on evaluating and monitoring State and local legislation, regulation, and enforcement actions that threaten to infringe on Federal legal protections relating to the provision or pursuit of reproductive care. HHS has published a report detailing its efforts to protect access to reproductive healthcare, including abortion care; protect patients' privacy and promote access to accurate information about reproductive healthcare services; and ensure that patients receive appropriate medical treatment under the law. Furthermore, HHS has continued taking action to help ensure non-discrimination in healthcare service delivery, including with respect to reproductive healthcare services and pharmacy access.

My Administration remains committed to supporting safe access to mifepristone, consistent with applicable law, and defending women's fundamental freedoms. Defending and protecting reproductive rights is essential to our Nation's health, safety, and progress. It is the policy of my Administration to protect against threats to the liberty and autonomy of those who live in this country.

Sec. 2. *Continuing to Protect Access to FDA-Approved Medication.* In light of recent developments and consistent with Executive Order 14076, within 60 days of the date of this memorandum:

(a) The Secretary of HHS, in consultation with the Attorney General and the Secretary of Homeland Security, shall consider:

(i) issuing guidance for patients seeking legal access to mifepristone, as well as for providers and entities, including pharmacies, that provide reproductive healthcare and seek to legally prescribe and provide mifepristone; and

(ii) any further actions, as appropriate and consistent with applicable law, to educate individuals on their ability to seek legal reproductive care, free from threats or violence.

(b) The Attorney General, the Secretary of Homeland Security, and the Secretary of HHS shall, as appropriate, provide the Interagency Task Force on Reproductive Healthcare Access, established in Executive Order 14076, with information concerning:

(i) potential barriers faced by patients seeking legal access to mifepristone or other reproductive healthcare, as well as by providers and entities, including pharmacies, that provide reproductive healthcare in providing mifepristone or other reproductive healthcare, and any recommendations for addressing these barriers; and

(ii) whether any additional institutional resources may be necessary to address these barriers.

Sec. 3. *General Provisions.* (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

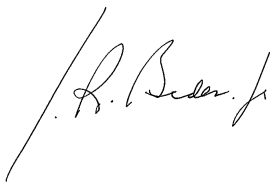
(i) the authority granted by law to an executive department or agency, or the head thereof; or

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

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

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

(d) The Attorney General is authorized and directed to publish this memorandum in the *Federal Register*.



THE WHITE HOUSE,
Washington, January 22, 2023

[FR Doc. 2023–01691
Filed 1–25–23; 8:45 am]
Billing code 4410–19–P

Rules and Regulations

Federal Register
Vol. 88, No. 17
Thursday, January 26, 2023

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2022–1260; Airspace Docket No. 22–ACE–9]

RIN 2120–AA66

Establishment of Area Navigation (RNAV) Route T–465; Northcentral United States

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Area Navigation (RNAV) route T–465 in the northcentral United States. The new RNAV route expands the availability of RNAV routing within the National Airspace System (NAS) in support of transitioning it from a ground-based to satellite-based navigation system.

DATES: Effective date 0901 UTC, April 20, 2023. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

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

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

History

The FAA published a notice of proposed rulemaking (NPRM) for Docket No. FAA–2022–1260 in the **Federal Register** (87 FR 65546; October 31, 2022), establishing RNAV route T–465 in support of FAA efforts to transition the NAS from a ground-based to a satellite-based Performance Based Navigation (PBN) system. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. Two positive comments were received supporting the establishment of T–465, acknowledging the enhanced safety related benefits provided to pilots and air traffic controllers alike by transitioning the NAS to a satellite-based navigation system.

United States Area Navigation Routes are published in paragraph 6011 of FAA Order JO 7400.11G, dated August 19, 2022, and effective September 15, 2022, which is incorporated by reference in 14 CFR 71.1. The RNAV route action listed in this document will be published subsequently in FAA Order JO 7400.11.

Differences From the NPRM

Subsequent to the NPRM, the FAA recognized the NPRM was published using Docket No. FAA–2202–1260, in error. The correct Docket No. is FAA–2022–1260. This rule corrects the Docket No. typographical error and changes the Docket No. for this action from ''FAA–2202–1260'' to ''FAA–2022–1260''.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order JO 7400.11G, Airspace Designations and Reporting Points, dated August 19, 2022, and effective September 15, 2022. FAA Order JO 7400.11G is publicly available as listed in the **ADDRESSES** section of this document. FAA Order JO 7400.11G lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This action amends 14 CFR part 71 by establishing RNAV route T–465 between the Des Moines, IA, area and the Minneapolis, MN, terminal area. The new RNAV route is described below.

T–465: T–465 is a new RNAV route that extends between the Des Moines, IA (DSM), VHF Omnidirectional Range/Tactical Air Navigation (VORTAC) navigational aid (NAVAID) and the NITZR, MN, waypoint (WP) located near Morristown, MN. This T-route provides enroute routing adjacent to VHF Ominidirectional Range (VOR) Federal airways V–13 and V–161 between the Des Moines VORTAC and the Mason City, IA, VOR/Distance Measuring Equipment (VOR/DME) NAVAIDs; and enroute routing adjacent to VOR Federal airways V–13 and V–505 between the Mason City, IA, VOR/DME NAVAID and the NITZR WP.

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

Regulatory Notices and Analyses

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

economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action of establishing RNAV route T–465 between the Des Moines, IA, VORTAC and the NITZR, MN, WP qualifies for categorical exclusion under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations at 40 CFR part 1500, and in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 5–6.5a, which categorically excludes from further environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points (see 14 CFR part 71, Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and Reporting Points); and, 5–6.5b, which categorically excludes from further environmental impact review actions regarding establishment of jet routes and Federal airways (see 14 CFR 71.15, *Designation of jet routes and VOR Federal airways*); operation of civil aircraft in a defense area, or to, within, or out of the United States through a designated Air Defense Identification Zone (ADIZ) (14 CFR part 99, *Security Control of Air Traffic*); authorizations for operation of moored balloons, moored kites, amateur rockets, and unmanned free balloons (see 14 CFR part 101, *Moored Balloons, Kites, Amateur Rockets and Unmanned Free Balloons*); and, authorizations of parachute jumping and inspection of parachute equipment (see 14 CFR part 105, *Parachute Operations*). As such, this action is not expected to result in any potentially significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5–2 regarding Extraordinary Circumstances, the FAA has reviewed this action for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis. The FAA has determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment or environmental impact study.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11G, Airspace Designations and Reporting Points, dated August 19, 2022, and effective September 15, 2022, is amended as follows:

Paragraph 6011 United States Area Navigation Routes.

* * * * *

T–465 Des Moines, IA (DSM) to NITZR, MN [New]

Des Moines, IA (DSM)	VORTAC	(Lat. 41°26′15.45″ N, long. 093°38′54.81″ W)
RRAZZ, IA	WP	(Lat. 43°17′00.00″ N, long. 093°33′05.00″ W)
DEMLL, MN	WP	(Lat. 43°57′55.00″ N, long. 093°29′29.00″ W)
NITZR, MN	WP	(Lat. 44°11′10.48″ N, long. 093°27′57.86″ W)

* * * * *

Issued in Washington, DC, on January 20, 2023.

Brian Konie,

Acting Manager, Airspace Rules and Regulations.

[FR Doc. 2023–01458 Filed 1–25–23; 8:45 am]

BILLING CODE 4910–13–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 4262

RIN 1212–AB53

Special Financial Assistance by PBGC—Withdrawal Liability Condition Exception

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule; response to comments.

SUMMARY: The Pension Benefit Guaranty Corporation (PBGC) published a final rule in the **Federal Register** on July 8, 2022, concerning the requirements for special financial assistance applications and related restrictions and conditions pursuant to the American Rescue Plan (ARP) Act of 2021, and provided a 30-day comment period on the condition requiring a phased recognition of special financial assistance in a plan's determination of withdrawal liability. PBGC is amending its special financial assistance regulation to add an exception process for the conditions relating to withdrawal liability.

DATES: This final rule is effective on January 26, 2023.

FOR FURTHER INFORMATION CONTACT: Daniel S. Liebman (*liebman.daniel@pbgc.gov;* 202–229–6510), Deputy General Counsel, Program Law and Policy Department, Hilary Duke (*duke.hilary@pbgc.gov;* 202–229–3839), Assistant General Counsel for Regulatory Affairs, or Stephanie Cibinic (*cibinic.stephanie@pbgc.gov;* 202–229–6352), Deputy Assistant General Counsel for Regulatory Affairs, Regulatory Affairs Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 445 12th Street SW, Washington, DC 20024–2101. If you are deaf or hard of hearing or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION:

Executive Summary

On July 9, 2021, the Pension Benefit Guaranty Corporation (PBGC) issued an interim final rule with a request for comment, adding to its regulations a new part 4262 to implement the requirements under section 9704 of the American Rescue Plan Act of 2021, ''Special Financial Assistance Program for Financially Troubled Multiemployer Plans.'' [1] On July 8, 2022, PBGC issued a final rule that made changes to the special financial assistance (SFA) program and requested comments on the condition requiring a phased recognition of SFA in a plan's determination of withdrawal liability (July 2022 final rule).[2] In response to comments received, PBGC is adding an exception process for certain withdrawal liability conditions that apply to a plan that receives SFA.

PBGC's legal authority for this rulemaking comes from section 4262 of the Employee Retirement Income

[1] The rule was published in the **Federal Register** on July 12, 2021, at 86 FR 36598.

[2] The rule was published in the **Federal Register** on July 8, 2022, at 87 FR 40968.

Security Act of 1974 (ERISA) (Special Financial Assistance by the Corporation), which requires PBGC to issue regulations or guidance setting forth requirements for SFA applications, permits PBGC to provide for how SFA and earnings thereon are to be invested, and permits PBGC, in consultation with the Secretary of the Treasury, to impose reasonable conditions by regulation or other guidance on an eligible multiemployer plan that receives SFA. PBGC's legal authority also comes from section 4002(b)(3) of ERISA, which authorizes PBGC to issue regulations to carry out the purposes of title IV of ERISA, and from section 4003(a) of ERISA, which authorizes PBGC to conduct investigations and audits.

Background

Section 4262 of ERISA creates a program to enhance retirement security for millions of Americans by providing SFA to certain financially troubled multiemployer pension plans upon application for assistance. Section 4262 of ERISA sets forth the provisions for SFA, including which plans are eligible to apply, the cutoff date for applications, rules relating to actuarial assumptions and PBGC's determinations on applications, and restrictions on the use of SFA. It also provides that certain plans with suspended benefits must reinstate those benefits prospectively and provide make-up payments to restore previously suspended benefits. A plan receiving SFA under section 4262 has no obligation to repay SFA.

On July 9, 2021, PBGC issued an interim final rule on Special Financial Assistance by PBGC (29 CFR part 4262). Part 4262 provides guidance to multiemployer pension plan sponsors on eligibility for SFA, determining the amount of SFA, content of an application for SFA, the process of applying, PBGC's review of applications, restrictions and conditions, and reporting and notice requirements. On July 8, 2022, with the approval of PBGC's board of directors, PBGC published a final rule implementing changes to the SFA program, including changes to the methodology to calculate SFA, permissible investments for SFA funds (SFA received and any earnings thereon), the application of conditions on a plan that merges with a plan that receives SFA, and the withdrawal liability conditions that apply to a plan that receives SFA.[3]

In the July 2022 final rule, PBGC provided for a 30-day comment period solely on the condition requiring a phased recognition of SFA in a plan's determination of withdrawal liability in § 4262.16(g)(2). PBGC invited comments on whether the condition requiring a phased recognition of SFA in a plan's determination of withdrawal liability strikes the correct balance among stakeholders, or if a different condition might work better. Additionally, PBGC expressed its interest in hearing from stakeholders about what the expected impact of such a condition is likely to be and whether additional clarification or guidance would be useful.

PBGC received six comment letters on the conditions relating to the calculation of withdrawal liability. PBGC received one comment letter on permissible investments that was not relevant to the request for comments and, consequently, is not discussed in this document. The next section of this preamble discusses the conditions under § 4262.16(g), the six comment letters on the conditions relating to the calculation of withdrawal liability, PBGC's responses to the comments, and a summary of changes made in this final rule.

Conditions Relating to Withdrawal Liability, Public Comments, and PBGC's Responses

To ensure that SFA is used to pay benefits and the expenses related to those benefit payments, section 4262(m)(1) of ERISA expressly authorizes PBGC, in consultation with the Secretary of the Treasury, to impose reasonable conditions on an eligible multiemployer plan that receives special financial assistance relating to certain aspects of plan terms or operations. These conditions are described in § 4262.16 and include conditions that relate to withdrawal liability.

Under sections 4201 through 4225 of ERISA, when a contributing employer withdraws from an underfunded multiemployer plan, the plan sponsor assesses withdrawal liability against the employer. Withdrawal liability represents a withdrawing employer's proportionate share of the plan's unfunded benefit obligations and is an important source of income for the plan. To assess withdrawal liability, the plan sponsor must determine the withdrawing employer's (1) allocable share of the plan's unfunded vested benefits (UVBs) (the value of nonforfeitable benefits that exceeds the value of plan assets) as of the end of the plan year before the employer's withdrawal, or as otherwise provided under section 4211, and (2) annual withdrawal liability payment and amortization period under section 4219.

Interest Assumptions for Determining UVBs Under the SFA Regulation

Under § 4262.16(g)(1), the interest assumptions used in determining UVBs for purposes of calculating withdrawal liability under section 4213(c) of ERISA must be the interest assumptions in appendix B to 29 CFR part 4044. The prescribed interest assumptions must be used until the later of: (1) 10 years after the end of the plan year in which the plan first receives payment of SFA; and (2) the last day of the plan year by which the plan projects that it will exhaust any SFA assets as determined under § 4262.4(b) (under which benefits and expenses are assumed to be paid exclusively from SFA assets until exhausted), extended by the number of years, if any, that the first plan year of payment is after the plan year that includes the SFA measurement date. The beginning of the 10-year period is the last day of the plan year in which the plan receives payment of SFA. For example, if a calendar year plan's SFA measurement date is in 2022, the plan receives payment of SFA in 2023, and had projected that it would exhaust SFA assets in 2051, the exhaustion year for the plan to use the prescribed interest assumptions would be 2052 (29 years + 1 year). Under this example, employers withdrawing before 2054 would have UVBs determined using the prescribed interest rates. While a plan is not required to use mass withdrawal interest assumptions beyond the specified period, the regulation does not preclude the use of settlement rates thereafter to determine withdrawal liability, as otherwise permitted by ERISA.

Phased Recognition of SFA Assets

Under § 4262.16(g)(2), a plan that receives SFA is required to recognize over time the amount of SFA received by the plan for the purpose of determining the plan's UVBs for calculating withdrawal liability.

Section 4262.16(g)(2) provides the procedures for determining the amount of SFA that is phased in for withdrawal liability purposes each year over the projected life of the SFA assets (determined as if SFA assets, *i.e.,* SFA and earnings thereon, are exhausted before other plan assets are used to pay benefits and expenses). The applicable phase-in period runs from the first plan year in which the plan receives payment

[3] Under section 4002(a) of ERISA, PBGC is administered in accordance with policies established by its Board of Directors, which is made up of the Secretaries of the Department of Labor, the Department of the Treasury, and the Department of Commerce.

of SFA through the end of the plan year by which, according to the plan's projections, it will exhaust any SFA assets. For a plan that received payment of SFA under the terms of the interim final rule and files a supplemented application, the first plan year of payment is the year in which it received SFA under the terms of the interim final rule. Where a plan's first plan year of payment is not the plan year that includes the plan's SFA measurement date, the exhaustion year is deferred by the number of years the first plan year of payment is after the plan year that includes the SFA measurement date.

To calculate the amount of SFA assets excluded for each plan year during the phase-in period, the plan must take the total amount of SFA paid to the plan and multiply that by a fraction, the numerator of which is the number of years remaining in the phase-in period as of the date that the UVBs are being determined, and the denominator is the total number of years in the phase-in period. For a plan that receives payment of SFA under the interim final rule and receives a supplemental payment, the total amount (payment under the interim final rule and supplemental payment) will be included in the phased recognition of SFA assets in determining UVBs for withdrawals occurring in plan years after the plan year the supplemental payment is received by the plan. For withdrawals that occur after the date the supplemented application is filed and before the plan year after the plan year in which the supplemental payment is made, only the payment of SFA under the interim final rule is included in the phased recognition of SFA assets.

As provided in § 4262.16(g)(2)(xv), this condition is applicable to a plan in determining withdrawal liability for withdrawals occurring after the plan year in which the plan receives payment of SFA. However, for a plan that received SFA under the terms of the interim final rule, this condition will not apply unless the plan files a supplemented application. If the plan files a supplemented application, this condition applies to the plan in determining withdrawal liability for withdrawals occurring on or after the date the plan files the supplemented application. A plan may choose to file a supplemented application if it has already received SFA under the terms of the interim final rule.

Three examples are included in § 4262.16(g)(2) to illustrate the procedures for the phased recognition of SFA assets.

PBGC determined that requiring phased recognition of SFA as a plan asset is a reasonable condition under section 4262(m) of ERISA because SFA does not result from employer contributions, but is a transfer of taxpayer funds to statutorily eligible financially distressed plans for the purpose of enabling these plans to pay benefits and expenses. That purpose is reflected in sections 4262(j)(1) and 4262(*l*) of ERISA. Without the condition, the payment of SFA could instead result in indirect transfers of SFA to withdrawing employers from plans by reducing their withdrawal liability. For a majority of plans that receive SFA, all SFA will be recognized as a plan asset for withdrawal liability purposes within 10 years, and because additional SFA will be incorporated into the determination of withdrawal liability each year, the effect of the condition will lessen over time.

The phased recognition of SFA as a plan asset is consistent with ERISA, the Internal Revenue Code (the Code), and actuarial practice. It is conceptually similar to the smoothed recognition of plan assets for purposes of calculating a plan's minimum funding requirements. The Department of the Treasury regulation at 26 CFR 1.412(c)(2)–1(b) permits multiemployer plans to ''smooth'' plan asset values when determining minimum funding by averaging the value of plan assets over up to 5 years rather than using the current fair market value of plan assets. It is also roughly comparable to the gradual recognition of SFA in determining minimum funding. Section 432(k)(2)(D) of the Code requires that SFA be disregarded in determining required contributions. Internal Revenue Service (IRS) Notice 2021–38, 2021–30 IRB 155, provides that SFA is recognized in the plan's funding standard account over time, in that any benefit or plan expense paid from the SFA account generates an actuarial gain that is amortized over 15 years.

In response to the July 2022 final rule, three commenters generally supported the added withdrawal liability condition under § 4262.16(g)(2) or said that the phased recognition of SFA funds as a plan asset was an improvement over the interim final rule that required a plan that received SFA to immediately recognize the SFA funds as a plan asset. One commenter opposed the condition because of separation-of-powers principles. PBGC disagrees with this comment. As explained in the July 2022 final rule, Congress chose to expressly delegate authority in section 4262(m) of ERISA to PBGC to impose reasonable conditions on a plan that receives SFA relating to withdrawal liability. This grant by Congress expands PBGC's authority beyond its existing authority under section 4002(b)(3) and sections 4201 through 4225 of ERISA to regulate withdrawal liability and authorizes PBGC to provide rules that define how SFA should be treated in the calculation of withdrawal liability. The condition in § 4262.16(g)(2) reflects the authority Congress delegated to PBGC to oversee the SFA program and ensure that SFA is preserved for the payment of benefits and expenses.

One commenter was concerned that the phased recognition of SFA will not be effective after the first few years following a plan's receipt of SFA and suggested several ways of strengthening the condition. One suggestion was to apply the condition to all plans that receive SFA (including plans that have already applied for and received SFA under the terms of the interim final rule without requiring that the plan file a supplemented application) because contributing employers to these plans should not be treated more favorably in the calculation of withdrawal liability than employers in plans that have not yet been able to apply for SFA. Alternatively, the commenter suggested permitting a plan that received SFA before August 8, 2022, the option to adopt the condition without having to file a supplemented application. Another suggestion was for PBGC to affirm that the amount of excluded SFA should include the investment return on SFA for each year in the phase-in period. An additional suggestion was to apply the condition over the full 30-year period that SFA is intended to cover, but that a compromise might be to amortize the SFA over no fewer than a stated period of years, such as 20 years.

PBGC considered these suggestions but decided not to adopt them. PBGC provided a process in the July 2022 final rule for a plan that receives SFA under the terms of the interim final rule to have the withdrawal liability condition in § 4262.16(g)(2) apply to the plan. The condition applies to a plan in determining withdrawal liability for a withdrawal occurring on or after the date the plan files a supplemented application. The supplemented application used for this purpose is not burdensome for a plan to file. Regarding the amount to be phased-in, PBGC provided examples in the July 2022 final rule that make it clear that investment returns are not included in the calculation of the amount excluded. PBGC also considered requiring the condition to cover a longer period of time, but decided not to adopt this suggestion. A longer period, such as requiring the condition to cover 20 or 30

years, may not be reasonable for plans that receive a small amount of SFA and the contributing employers to those plans.

Another commenter who supported the phased-recognition of SFA over the projected payout period recognized that the length of that period may vary based on characteristics of the SFA-recipient plan. PBGC agrees with this comment. The condition in § 4262.16(g)(2) is reasonable and appropriate for plans because it applies only through the end of the plan year by which each plan projects it will exhaust SFA assets.

Some of the suggestions made by commenters are beyond the scope of this rulemaking. For example, one commenter suggested that PBGC impose a condition so that an employer that has an obligation to contribute to a plan for work performed in the building and construction industry that ceases operations or transfers operations outside the jurisdiction of its collective bargaining unit will incur withdrawal liability. Under section 4203(b) of ERISA, such employers are not considered to have withdrawn from the plan.

Two commenters requested that PBGC review the impact on the assessment of withdrawal liability when a plan that receives SFA is deemed to be in critical status through 2051. Under the Multiemployer Pension Reform Act of 2014, critical status plans must ignore certain contribution increases in calculating UVBs and withdrawal liability. One of these commenters suggested that PBGC add a condition to require plans that receive SFA to include contribution increases under a rehabilitation plan for withdrawal liability purposes. This issue raises interpretive issues about sections 305(g)(3), 305(d)(1)(B), and 305(f)(1)(B) of ERISA over which the Secretary of the Treasury has interpretive jurisdiction pursuant to section 101 of Reorganization Plan No. 4 of 1978 (5 U.S.C. App.). PBGC is continuing to examine these issues with the Department of the Treasury and, if appropriate, may issue additional guidance.

Exceptions From Withdrawal Liability Conditions

PBGC received two comment letters requesting exceptions from the withdrawal liability conditions. One commenter requested an exception for single-owner professional employers stating that the phase-in of SFA does not provide sufficient relief from the withdrawal liability such employers could be assessed. The commenter proposed that PBGC provide for full consideration of SFA in the calculation of withdrawal liability for single-owner professional employers and relax the condition in § 4262.16(g)(1) requiring the use of a specific interest rate assumption. PBGC declines to add an exception for single-owner professional employers. The purpose of SFA is to help plans pay for benefits and plan expenses and not to indirectly subsidize employers to withdraw from these plans. PBGC is not making this change because if PBGC provided an exception for a special class, such as, single-owner professional employers, it would subsidize the withdrawal of these employers rather than discourage employer withdrawal.

Another commenter requested that PBGC grant exceptions from or modifications to the withdrawal liability conditions under § 4262.16(g)(1) and (2) for plans that have unique facts and circumstances, such as a plan that uses an alternative withdrawal liability allocation method, if applying the condition to the plan would result in a lower assessment of withdrawal liability, thereby incentivizing contributing employers to withdraw.

After considering the comment, PBGC determined that adding a process for a plan to request an exception from the withdrawal liability conditions in § 4262.16(g)(1) and (2) under narrow circumstances is reasonable. The conditions on withdrawal liability are intended to ensure that SFA is preserved for the payment of benefits and expenses and not used to subsidize employer withdrawals. If application of the conditions would result in an increase in employer withdrawals, the plan would be negatively impacted and the purpose of the conditions would not be met. Accordingly, PBGC is adding § 4262.16(g)(3), which provides a process for a plan sponsor to request approval from PBGC for an exception from the withdrawal liability conditions in § 4262.16(g)(1) and (2) under specific circumstances.

Under the exception process, a plan sponsor may request an exception from the withdrawal liability conditions by demonstrating to the satisfaction of PBGC that the exception lessens the risk of loss to plan participants and beneficiaries and does not increase expected employer withdrawals. The plan sponsor must also demonstrate that the exception does not increase the amount of the plan's SFA or unreasonably increase PBGC's risk of loss. A request for PBGC approval of an exception must be submitted by the plan sponsor or its duly authorized representative and must contain identifying, actuarial, and financial information described in § 4262.16(g)(3).

The exception process added by this final rule is separate from the SFA application process. A request for an exception from the withdrawal liability conditions may be submitted to PBGC either before the plan's initial application for SFA is filed or before a revised application is filed. A plan sponsor requesting an exception is encouraged to have a pre-submission consultation with PBGC.

When an application for SFA is prepared, a plan is required to take into account plan assets in determining the amount of requested SFA. Under § 4262.4(c)(4), this includes withdrawal liability payments made and expected to be made to the plan during the SFA coverage period taking into account a reasonable allowance for amounts considered uncollectible. Accordingly, if a plan sponsor submits a request for an exception from the withdrawal liability conditions, the plan's application for SFA must take the exception into account in the determination of the withdrawal liability payments expected to be made to the plan and the amount of requested SFA.

Compliance With Rulemaking Guidelines

Administrative Procedure Act

As described in the July 2022 final rule, PBGC's adoption of a condition requiring a phased recognition of SFA in a plan's determination of withdrawal liability under § 4262.16(g)(2) is consistent with PBGC's statutory authority to impose reasonable conditions on plans that receive SFA under section 4262(m) of ERISA. It is also more effective, along with the other conditions, for achieving the intended purposes of that statutory authority—to help enable plans that receive SFA to pay benefits due through 2051 and to preclude or disincentivize plans and employers from taking actions that have the potential to accelerate plan insolvencies. This condition was adopted after consideration of comments received on the withdrawal liability condition requiring the use of specified interest assumptions included in the interim final rule. PBGC provided for a comment period of 30 days on the new withdrawal liability condition in § 4262.16(g)(2) because it is an area of complexity that PBGC recognized may benefit from additional public comment. PBGC noted this additional opportunity for public comment on the condition would allow PBGC to assess the effectiveness of the withdrawal liability

condition, consider adjustments or changes, and determine whether more clarification is needed regarding the condition or the mechanics of implementation. The preamble to the July 2022 final rule provided that to the extent PBGC determines that adjustments or changes to the withdrawal liability condition are appropriate and authorized, or that further clarification is needed, PBGC would revise the condition accordingly.

As discussed earlier in the preamble, in response to this comment solicitation, PBGC received comments on the phase-in condition in § 4262.16(g)(2) as well as on the condition requiring the use of specified interest assumptions in § 4262.16(g)(1). Following consideration of these comments, PBGC determined that it would be appropriate to provide a process for plans to apply for an exception to the conditions in § 4262.16(g)(1) and (2), that would be available where application of the conditions would result in an increase in employer withdrawals. Enabling a plan to apply for an exception from the withdrawal liability conditions based on the specific facts and circumstances of the plan will provide flexibility to ensure that the statutory purposes of SFA to pay for benefits and administrative expenses, as described earlier in this preamble, are met.

The Administrative Procedure Act provides at 5 U.S.C. 553(b) that notice and comment requirements do not apply when an agency, for good cause, finds that they are impracticable, unnecessary, or contrary to the public interest. An exception is also provided at 5 U.S.C. 553(d)(3) to the requirement of a 30-day delay before the effective date of a rule ''for good cause found and published with the rule.'' As described in PBGC's interim final rule and July 2022 final rule, Congress expressed a clear urgency for PBGC to implement an SFA program to get appropriate assistance to eligible plans as quickly as possible. Congress authorized PBGC to prioritize the filing of applications for eligible plans with the greatest need, during the first 2 years after March 11, 2021, and PBGC provided for such a process. PBGC is receiving and processing applications filed by these plans. Under this final rule, a plan eligible for SFA may apply for an exception to the withdrawal liability conditions before the plan files its SFA application. It is in the interest of a plan eligible to apply during the priority period to be able to determine if the plan should apply for an exception to the withdrawal liability conditions. Any delay in the effective date of the final rule would be contrary to the interests of the plan's participants and beneficiaries and could cause a delay in the submission of the plan's application and the plan's receipt of SFA. Accordingly, PBGC has determined that the public interest is best served by issuing this final rule expeditiously, without further opportunity for notice and comment, and that good cause exists for making the exception process set forth in this amendment effective less than 30 days after publication.

PBGC is making this rule effective on January 26, 2023.

Congressional Review Act

Pursuant to Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (also known as the Congressional Review Act or CRA) (5 U.S.C. 801 *et seq.*), the Office of Management and Budget (OMB) has designated this final rule as a ''major rule,'' as defined by 5 U.S.C. 804(2)(a), which is a rule likely to result in an annual effect on the economy of $100 million or more. Section 808(2) of the CRA provides that, notwithstanding the effective date of a major rule defined under section 801, any rule which an agency for good cause finds that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest, shall take effect at such time as the Federal agency promulgating the rule determines. This good cause justification supports waiver of the 60-day delayed effective date for major rules under the CRA.

Because of the urgent need for the SFA program to distribute appropriate financial assistance to eligible plans quickly, PBGC has determined that this final rule must take effect January 26, 2023. As described earlier in the preamble, this effective date allows eligible plans to apply for an exception from the withdrawal liability conditions and apply for SFA without unnecessary delay. Under the circumstances, PBGC has determined that public interest is best served by making this final rule effective on January 26, 2023. PBGC does not want to unduly delay providing financial assistance to plans.

Regulatory Impact Analysis

(1) Relevant Executive Orders and Regulatory Impact Analysis

Under Executive Order (E.O.) 12866, OMB reviews any regulation determined to be a ''significant regulatory action.'' Section 3(f) of E.O. 12866 defines a ''significant regulatory action'' as an action that is likely to result in a rule that: (1) has an annual effect on the economy of $100 million or more, or adversely affects in a material way a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also referred to as economically significant); (2) creates serious inconsistency or otherwise interferes with an action taken or planned by another agency; (3) materially alters the budgetary impacts of entitlement grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) raises novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the E.O.

OMB has determined that this final rule is economically significant under section 3(f)(1) and has therefore reviewed this rule under E.O. 12866.

E.O. 13563 supplements and reaffirms the principles, structures, and definitions governing contemporary regulatory review that were established in E.O. 12866, emphasizing the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. It directs agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, and public health and safety effects, distributive impacts, and equity).

PBGC has provided an assessment of the potential benefits, costs, and transfers associated with the final rule.

(2) Estimated Impact of Regulatory Action

As discussed earlier in the preamble, PBGC published a final rule on July 8, 2022, to modify its regulations under part 4262, which implement the requirements under ARP. It is through this program that PBGC is providing SFA to eligible multiemployer pension plans from a fund established by ARP for SFA purposes and credited with transfers from the general fund of the Department of the Treasury.

In the Regulatory Impact Analysis of the July 2022 final rule, PBGC provided estimates of the transfer amounts of the SFA program using Multiemployer Pension Insurance Modeling System (ME–PIMS), PBGC's stochastic modeling tool. The aggregate SFA was estimated to be approximately $82.3 billion in assistance payments paid to approximately 200 plans and $150 million to PBGC to administer the SFA program. PBGC further estimated that plans that received financial assistance from PBGC under section 4261 of ERISA

in the form of loans will repay PBGC in aggregate approximately $385 million.

The addition of § 4262.16(g)(3), to provide plans with an exception process for the withdrawal liability conditions is expected in rare circumstances to impact the assumptions selected by the plan for projecting future withdrawal liability payments and ongoing employer contributions for purposes of determining the SFA amount in the plan's application. In the absence of an exception process under § 4262.16(g)(3), some plans may expect an increase in employer withdrawals and a decrease in employer contributions following receipt of SFA. Consequently, without the exception, these plans would be expected to incorporate these anticipated employer withdrawals into their withdrawal liability payment assumption, which could increase the SFA requested in their applications. Although this circumstance would be expected to be limited to very few plans, PBGC estimates that the addition of § 4262.16(g)(3) could decrease overall SFA program transfers by $1 to $2 billion.

As discussed earlier in the preamble, PBGC considered regulatory alternatives based on the public comments provided during the 30-day comment period on the withdrawal liability condition in § 4262.16(g)(2) included in the July 2022 final rule. Under one such regulatory alternative, PBGC considered extending the period of time for the phased recognition of SFA in a plan's determination of withdrawal liability. PBGC decided not to adopt this suggestion because a longer period, such as requiring the condition to cover 20 or 30 years, may not be reasonable for plans that receive a small amount of SFA and for the contributing employers to those plans. PBGC also considered leaving the withdrawal liability condition unchanged. However, it was decided that the addition of a narrow exception process under § 4262.16(g)(3) will enhance the ability of plans, based on their specific facts and circumstances, to retain employers and minimize the likelihood that the receipt of SFA could induce employers to withdraw from these plans.

Regulatory Flexibility Act

Because PBGC is not publishing a general notice of proposed rulemaking under 5 U.S.C. 553(b), the regulatory flexibility analysis requirements of the Regulatory Flexibility Act do not apply. See 5 U.S.C. 601(2).

Paperwork Reduction Act

With this final rule, PBGC is submitting changes to the collection of information, previously approved under control number 1212–0074, to the Office of Management and Budget (OMB) for review and approval under the Paperwork Reduction Act. OMB's decision regarding this information collection request will be available at *www.Reginfo.gov.* An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Under § 4262.16(g)(3), PBGC is adding a request for a determination from PBGC for approval of an exception from the withdrawal liability conditions under § 4262.16(g)(1) and (2). PBGC estimates that, beginning in 2023, it will receive an average of only one request per year with an average annual hour burden of 8 hours and an average annual cost burden of $25,000. In addition, under the circumstances described in § 4262.16(d), (f), and (h), a plan sponsor may file a request for a determination from PBGC for approval of an exception from SFA conditions relating to reductions in contributions, transfers or mergers, and settlement of withdrawal liability. PBGC estimates that beginning in 2023, PBGC will receive an average of 2.2 requests per year for these additional determinations. PBGC needs the information required for a request for determination to determine whether to approve an exception from each of the specified conditions of receiving SFA. PBGC estimates that, beginning in 2023, PBGC will receive an average of 3.2 requests per year for all determinations. PBGC estimates an average annual hour burden of 15.6 hours and average annual cost burden of $44,000.

The estimated aggregate average annual hour burden for the next 3 years for the information collection in part 4262 is 878.6 hours for employer and fund office administrative, clerical, and supervisory time. The estimated aggregate average annual cost burden for the next 3 years for the information collection request in part 4262 is $2,130,400, for approximately 5,326 contract hours assuming an average hourly rate of $400 for work done by outside actuaries and attorneys. The actual hour burden and cost burden per plan will vary depending on plan size and other factors.

List of Subjects in 29 CFR Part 4262

Employee benefit plans, Pension insurance, Pensions, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, PBGC is amending 29 CFR part 4262 as follows:

PART 4262—SPECIAL FINANCIAL ASSISTANCE BY PBGC

■ 1. The authority citation for part 4262 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1432.

■ 2. In § 4262.16, add paragraph (g)(3) to read as follows:

§ 4262.16 Conditions for special financial assistance.

* * * * *

(g) * * *

(3) *Request for exception.* The plan sponsor of a plan eligible for special financial assistance may request approval from PBGC for an exception from the conditions under paragraphs (g)(1) and (2) of this section by demonstrating to the satisfaction of PBGC that the exception lessens the risk of loss to plan participants and beneficiaries and does not increase expected employer withdrawals. The plan sponsor must also demonstrate to the satisfaction of PBGC that the exception does not increase the amount of the plan's special financial assistance or unreasonably increase PBGC's risk of loss. A request for PBGC approval of an exception must be submitted by the plan sponsor, or its duly authorized representative, either before an initial application or before a revised application for special financial assistance is filed by the plan, and must contain all of the following identifying, actuarial, and financial information:

(i) Name, address, email, and telephone number of the plan sponsor and the plan sponsor's authorized representatives, if any.

(ii) The nine-digit employer identification number (EIN) assigned to the plan sponsor by the IRS and the three-digit plan identification number (PN) assigned to the plan by the plan sponsor, and, if different, the EIN and PN last filed with PBGC. If an EIN or PN has not been assigned, that should be indicated.

(iii) Most recent plan document or restatement of the plan document and all subsequent amendments adopted (if any) and most recent Declaration of Trust.

(iv) Administrative manuals and other documents governing the plan's assessment or administration of withdrawal liability.

(v) A copy of the most recent actuarial valuation performed for the plan before the date of the plan's submission of a request for approval under this paragraph (g)(3), and the actuarial valuation performed for each of the 2 plan years immediately preceding the most recent actuarial valuation.

(vi) A copy of the plan actuary's most recent certification under section 305(b)(3) of ERISA, including a detailed description of the assumptions used in the certification, and the basis under which they were determined. The description must include information about the assumptions used for the projection of future contributions, withdrawal liability payments, and investment returns, and any other assumption that may have a material effect on projections.

(vii) A statement of whether the plan sponsor is requesting an exception from the condition under paragraph (g)(1) or (2) of this section or both and a demonstration of how the proposed exception lessens the risk of loss to plan participants and beneficiaries and does not increase expected employer withdrawals. The statement must also include a demonstration that the exception does not increase the amount of the plan's special financial assistance or unreasonably increase PBGC's risk of loss.

(viii) A list of employers contributing greater than 5 percent of plan contributions in a plan year.

(ix) A certification by the plan's actuary that the amount of special financial assistance that will be requested in the plan's application for special financial assistance will be determined assuming the exception will be approved.

(x) A detailed statement certified by an enrolled actuary of the effect of the proposed exception, and a demonstration for 30 years that the estimated withdrawal liability payments and contributions with the proposed exception exceed the estimated withdrawal liability payments and contributions without the proposed exception. The demonstration must show an aggregate of all withdrawal liability payments and an aggregate of all contributions for each year in the 30-year period and include representative examples of employer withdrawal liability payments and contributions. An individual employer's withdrawal liability assessment reflecting the proposed exception must be no less than what would be assessed without the proposed exception.

(xi) Any additional information PBGC determines it needs to review a request for approval of a proposed exception.

* * * * *

Issued in Washington, DC.

Gordon Hartogensis,

Director, Pension Benefit Guaranty Corporation.

[FR Doc. 2023–01415 Filed 1–25–23; 8:45 am]

BILLING CODE 7709–02–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 11

[Docket No. PTO–C–2022–0028]

RIN 0651–AD62

Final Rule Eliminating Continuing Legal Education Certification and Recognition for Patent Practitioners

AGENCY: United States Patent and Trademark Office, Department of Commerce.

ACTION: Final rule.

SUMMARY: This final rule adopts, without change, an interim final rule with a request for comments published in the **Federal Register** on November 14, 2022, that eliminated provisions of the Code of Federal Regulations related to voluntary continuing legal education (CLE) certification and recognition for registered patent practitioners and individuals granted limited recognition to practice in patent matters before the United States Patent and Trademark Office (USPTO or Office).

DATES: *Effective Date:* February 27, 2023.

FOR FURTHER INFORMATION CONTACT: Will Covey, Deputy General Counsel and Director for the Office of Enrollment and Discipline (OED Director), at 571–272–4097.

SUPPLEMENTARY INFORMATION: The USPTO adopts a final rule amending 37 CFR 11.11(a)(1) and (a)(3) to eliminate provisions concerning the voluntary CLE certification for registered patent practitioners and persons granted limited recognition to practice in patent matters before the USPTO under 37 CFR 11.9.

Effective August 3, 2020, 37 CFR 11.11(a)(3) provided that patent practitioners could voluntarily certify completion of CLE to the OED Director (Setting and Adjusting Patent Fees During Fiscal Year 2020, 85 FR 46932). Section 11.11(a)(1) provided that the OED Director may publish whether each registered patent practitioner or person granted limited recognition under 37 CFR 11.9 has voluntarily certified that they completed the specified amount of CLE in the preceding 24 months.

On October 9, 2020, the USPTO published proposed CLE guidelines with a request for comments (Proposed Continuing Legal Education Guidelines, 85 FR 64128). The USPTO received public comments through January 7, 2021. On June 10, 2021, the USPTO published a **Federal Register** Notice providing, inter alia, that the USPTO would proceed with the voluntary CLE certification in the spring of 2022 (New Implementation Date for Patent Practitioner Registration Statement and Continuing Legal Education Certification, 86 FR 30920). On December 16, 2021, after considering public comments received regarding the proposed CLE guidelines, the USPTO published another **Federal Register** Notice indefinitely delaying implementation of the voluntary CLE certification (New Implementation Date for Voluntary Continuing Legal Education Certification, 86 FR 71453).

After receiving and considering stakeholder feedback on the certification process and possible details regarding implementation, the USPTO determined that it will not implement the voluntary CLE certification program at this time. Accordingly, on November 14, 2022, the USPTO published an interim final rule (IFR) eliminating voluntary CLE certification and recognition provisions from the rules governing practice in patent matters before the Office. The IFR provided an opportunity for interested persons to submit comments on or before December 14, 2022. The USPTO did not receive any comments. Based on the rationale set forth in the IFR, the USPTO adopts the IFR without change.

In the future, the Office may reconsider CLE reporting for patent practitioners, and nothing in this notice is intended to restrict or prohibit such action at a later time.

Discussion of Specific Rules

The USPTO amends § 11.11 to remove the last sentence in paragraph (a)(1) to reflect the elimination of the voluntary CLE certification for registered patent practitioners and individuals granted limited recognition to practice in patent matters before the USPTO under 37 CFR 11.9, and to remove the entirety of paragraph (a)(3).

Rulemaking Requirements

A. Administrative Procedure Act: This final rule, without change, removes the provisions that apply to voluntary CLE certification for registered patent practitioners and individuals granted limited recognition to practice in patent matters before the USPTO under 37 CFR 11.9. The changes in this rulemaking involve rules of agency practice and procedure, and/or interpretive rules. *See Perez* v. *Mortgage Bankers Ass'n,* 135 S. Ct. 1199, 1204 (2015) (interpretive rules ''advise the public of the agency's construction of the statutes and rules which it administers'') (citations and internal quotation marks omitted); *Nat'l Org. of Veterans' Advocates* v. *Sec'y of*

Veterans Affairs, 260 F.3d 1365, 1375 (Fed. Cir. 2001) (rule that clarifies interpretation of a statute is interpretive); *Bachow Commc'ns Inc.* v. *FCC,* 237 F.3d 683, 690 (D.C. Cir. 2001) (rules governing an application process are procedural under the Administrative Procedure Act); *Inova Alexandria Hosp.* v. *Shalala,* 244 F.3d 342, 350 (4th Cir. 2001) (rules for handling appeals are procedural where they do not change the substantive standard for reviewing claims).

Accordingly, prior notice and an opportunity for public comment for the changes in this rulemaking are not required pursuant to 5 U.S.C. 553(b) or (c), or any other law. *See Perez,* 135 S. Ct. at 1206 (notice-and-comment procedures are not required when an agency ''issue[s] an initial interpretive rule'' or when it amends or repeals that interpretive rule); *Cooper Techs. Co.* v. *Dudas,* 536 F.3d 1330, 1336–37 (Fed. Cir. 2008) (stating that 5 U.S.C. 553, and thus 35 U.S.C. 2(b)(2)(B), do not require notice-and-comment rulemaking for ''interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice'' (quoting 5 U.S.C. 553(b)(A))).

Moreover, the Office, pursuant to the authority at 5 U.S.C. 553(b)(B), finds good cause to adopt this final rule without prior notice and an opportunity for public comment, as such procedures would be contrary to the public interest. This rule will make final the removal of provisions related to voluntary CLE certification from the regulations at 37 CFR 11.11(a) to avoid any confusion as to the status of the program. Although the voluntary CLE certification program was codified in the regulations, it was never implemented, and no patent practitioner participated in the program. Implementing this interim rule without prior notice and an opportunity for public comment is in the public interest because the time needed to do so would further delay the removal of the regulations and could lead to confusion as to the current status of the program among practitioners who practice before the USPTO.

B. Regulatory Flexibility Act: For the reasons set forth below, the Senior Counsel for Regulatory and Legislative Affairs, Office of General Law, of the USPTO has certified to the Chief Counsel for Advocacy of the Small Business Administration that the changes in this rule will not have a significant economic impact on a substantial number of small entities. *See* 5 U.S.C. 605(b).

This final rule will eliminate the provisions related to voluntary CLE certification. Because the voluntary CLE certification program was never implemented, no registered patent practitioners or persons granted limited recognition to practice in patent matters before the USPTO will be affected. Accordingly, the changes are expected to be of minimal or no additional burden to those practicing before the Office, and this rulemaking will not have a significant economic impact on a substantial number of small entities.

C. Executive Order 12866 (Regulatory Planning and Review): This rulemaking has been determined to be not significant for purposes of E.O. 12866 (Sept. 30, 1993).

D. Executive Order 13563 (Improving Regulation and Regulatory Review): The USPTO has complied with E.O. 13563 (Jan. 18, 2011). Specifically, the Office has, to the extent feasible and applicable: (1) made a reasoned determination that the benefits justify the costs of the rule; (2) tailored the rule to impose the least burden on society consistent with obtaining the regulatory objectives; (3) selected a regulatory approach that maximizes net benefits; (4) specified performance objectives; (5) identified and assessed available alternatives; (6) involved the public in an open exchange of information and perspectives among experts in relevant disciplines, affected stakeholders in the private sector, and the public as a whole, and provided online access to the rulemaking docket; (7) attempted to promote coordination, simplification, and harmonization across Government agencies and identified goals designed to promote innovation; (8) considered approaches that reduce burdens and maintain flexibility and freedom of choice for the public; and (9) ensured the objectivity of scientific and technological information and processes.

E. Executive Order 13132 (Federalism): This rulemaking does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under E.O. 13132 (Aug. 4, 1999).

F. Executive Order 13175 (Tribal Consultation): This rulemaking will not: (1) have substantial direct effects on one or more Indian tribes, (2) impose substantial direct compliance costs on Indian tribal governments, or (3) preempt tribal law. Therefore, a tribal summary impact statement is not required under E.O. 13175 (Nov. 6, 2000).

G. Executive Order 13211 (Energy Effects): This rulemaking is not a significant energy action under E.O. 13211 because this rulemaking is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects is not required under E.O. 13211 (May 18, 2001).

H. Executive Order 12988 (Civil Justice Reform): This rulemaking meets applicable standards to minimize litigation, eliminate ambiguity, and reduce burden, as set forth in sections 3(a) and 3(b)(2) of E.O. 12988 (Feb. 5, 1996).

I. Executive Order 13045 (Protection of Children): This rulemaking does not concern an environmental risk to health or safety that may disproportionately affect children under E.O. 13045 (Apr. 21, 1997).

J. Executive Order 12630 (Taking of Private Property): This rulemaking will not effect a taking of private property or otherwise have taking implications under E.O. 12630 (Mar. 15, 1988).

K. Congressional Review Act: Under the Congressional Review Act provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*), the USPTO will submit a report containing the final rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the Government Accountability Office. The changes in this rulemaking are not expected to result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic and export markets. Therefore, this rulemaking is not expected to result in a ''major rule'' as defined in 5 U.S.C. 804(2).

L. Unfunded Mandates Reform Act of 1995: The changes in this rulemaking do not involve a Federal intergovernmental mandate that will result in the expenditure by State, local, and tribal governments, in the aggregate, of $100 million (as adjusted) or more in any one year, or a Federal private sector mandate that will result in the expenditure by the private sector of $100 million (as adjusted) or more in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995. *See* 2 U.S.C. 1501 *et seq.*

M. National Environmental Policy Act of 1969: This rulemaking will not have any effect on the quality of the environment and is thus categorically excluded from review under the National Environmental Policy Act of 1969. *See* 42 U.S.C. 4321 *et seq.*

N. National Technology Transfer and Advancement Act of 1995: The requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) are not applicable because this rulemaking does not contain provisions that involve the use of technical standards.

O. Paperwork Reduction Act of 1995: The Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) requires that the Office consider the impact of paperwork and other information collection burdens imposed on the public. This rulemaking does not involve information collection requirements that are subject to review and approval by the Office of Management and Budget under the Paperwork Reduction Act.

P. E-Government Act Compliance: The USPTO is committed to compliance with the E-Government Act to promote the use of the internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes.

List of Subjects in 37 CFR Part 11

Administrative practice and procedure, Inventions and patents, Lawyers, Reporting and recordkeeping requirements.

PART 11—REPRESENTATION OF OTHERS BEFORE THE UNITED STATES PATENT AND TRADEMARK OFFICE

■ Accordingly, the interim final rule amending 37 CFR part 11, which published on November 14, 2022 (87 FR 68054), is adopted as a final rule without change.

Katherine K. Vidal,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2023–01552 Filed 1–25–23; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R3–ES–2021–0140; FF09E21000 FXES1111090FEDR 234]

RIN 1018–BG14

Endangered and Threatened Wildlife and Plants; Endangered Species Status for Northern Long-Eared Bat; Delay of Effective Date

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule; delay of effective date.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), are delaying the effective date of a final rule we published on November 30, 2022, reclassifying the northern long-eared bat (*Myotis septentrionalis*) as an endangered species under the Endangered Species Act of 1973, as amended (Act). This delay is necessary for the Service to finalize conservation tools and guidance documents to avoid confusion and disruption with members of the public who would be regulated by the rule and Federal agencies in the implementation of section 7 of the Act.

DATES: The effective date of the final rule amending 50 CFR part 17, published November 30, 2022, at 87 FR 73488, is delayed until March 31, 2023.

ADDRESSES: This final rule is available on the internet at *https://www.regulations.gov.* For access to the docket to read the November 30, 2022, final rule or other background documents, including the comments received on that final rule, go to *https://www.regulations.gov* and search for Docket No. FWS–R3–ES–2021–0140.

FOR FURTHER INFORMATION CONTACT: Shauna Marquardt, Field Supervisor, U.S. Fish and Wildlife Service, Minnesota—Wisconsin Ecological Services Field Office, 4101 American Boulevard East, Bloomington, MN 55425; telephone 952–252–0092. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION:

I. Background

On November 30, 2022, we published in the **Federal Register** (87 FR 73488) a final rule reclassifying the northern long-eared bat as an endangered species under the Act (16 U.S.C. 1531 *et seq.*). The rule was to be effective on January 30, 2023. However, with this rule, we are delaying the effective date to March 31, 2023, without opportunity for public comment. This delay will allow us to finalize conservation tools and guidance documents, thereby preventing confusion and disruption with other Federal agencies under section 7 of the Act.

Currently, the northern long-eared bat is listed as a threatened species under the Act (see 80 FR 17974; April 2, 2015) with a species-specific rule issued under section 4(d) of the Act (hereafter, ''section 4(d) rule'') (see 81 FR 1900; January 14, 2016). When the November 30, 2022, final rule goes into effect, the reclassification of the northern long-eared bat to an endangered species will nullify the section 4(d) rule that currently tailors prohibitions and exceptions to the prohibitions necessary and advisable for the species. We recognize that the change to endangered status will result in questions and concerns about establishing compliance under the Act for forestry, wind energy, infrastructure, and many other projects within the 37 States that comprise the range of the northern long-eared bat. We are committed to working proactively with stakeholders to conserve and recover northern long-eared bats while reducing impacts to landowners, where possible and practicable. Thus, we are working to finalize tools that will help guide project managers through section 7 consultation once the reclassification of the northern long-eared bat takes effect to prevent delay for projects currently reviewed under the section 4(d) rule. We are also developing an online determination key that will provide predetermined consultation outcomes and automatic project concurrence for some projects as well as voluntary guidance for wind facilities and private activities that involve habitat modification. Delaying the effective date will allow us to finalize these documents and communicate with external partners.

Over the last 3 years, we have completed consultation under section 7(a)(2) of the Act on 24,480 projects across the 37-State range for the northern long-eared bat. Many of these projects are not complete. Under the 4(d) rule, incidental take of the northern long-eared bat was not prohibited except in certain situations. With the final rule reclassifying the northern long-eared bat as endangered, incidental take of the species that is reasonably certain to occur as a result of some of these actions would now be prohibited, absent an incidental take statement (ITS) from the Service in accordance with section 7(o)(2) of the Act. Therefore, when the final rule becomes effective, numerous Federal agencies will need to reinitiate consultation with the Service, and the Service must develop and provide biological opinions and incidental take statements with terms and conditions to ensure any taking of the northern long-eared bat that occurs as a result of each of the subject actions is not a prohibited taking

or likely to jeopardize the species. These projects would halt while the Service and the Federal action agency reinitiate consultation, which would affect projects covering the breadth of the species' 37-State range and nearly all aspects of the U.S. economy, including agriculture (*i.e.,* crop production, animal feeding operations, grazing, irrigation), infrastructure (*i.e.,* power generation and transmission, roads, bridges, communication towers, dams, levees, pipelines, wastewater treatment, water supply), residential and commercial development, forestry, military operations, and mining.

To date, we are aware of 3,095 projects for which we will need to provide an ITS when the November 30, 2022, reclassification rule goes into effect and the section 4(d) rule is nullified. These projects include road and bridge construction and maintenance projects across the 37-State range and forest management activities intended to prevent wildfires and sustain the health, diversity, and productivity of the Nation's forests, which also provide important northern long-eared bat habitat. This number does not include new projects or ongoing projects, of the 24,480 previously mentioned, that may be impacted by a lack of the conservation tools and guidance documents that are currently under development. Without these final tools in place, many new and existing projects that require consultation will likely experience project delays. The tools and guidance documents will also help private landowners evaluate their risk of taking northern long-eared bats; therefore, non-Federal projects may also be delayed as entities determine whether or not they need take coverage for their activities under section 10(a)(1)(B) of the Act. We would not be meeting the intent of the Act to provide required protections for listed species, and our agency's ''due and timely execution of its functions'' under the Act would be unavoidably prevented.

This 60-day delay of the effective date of the November 30, 2022, final rule (87 FR 73488)—based on the good cause articulated below—is for the purpose of preventing confusion and disruption for Federal agencies in the implementation of section 7 of the Act. During this period, we will finalize the guidance and tools that are under development and communicate with external partners to minimize project delays. We are, therefore, delaying the effective date of the final rule from January 30, 2023, to March 31, 2023.

II. Good Cause Under the Administrative Procedure Act

Our delay of the effective date of the reclassification of the northern long-eared bat as an endangered species from January 30, 2023, to March 31, 2023, without opportunity for public comment, effective immediately upon publication of this document in the **Federal Register**, is based on the good-cause exception provided in the Administrative Procedure Act (APA). Pursuant to 5 U.S.C. 553(b)(B) and (d)(3), we have determined that good cause exists to forgo the requirements to provide prior notice and an opportunity for public comment on this 60-day delay of the effective date of the November 30, 2022, final rule (87 FR 73488), and to make this action announcing the delay effective immediately. Under the totality of the circumstances presented here, notice and comment would be both impracticable and contrary to the public interest because it would prevent the Service from performing its functions, create confusion and disruption in the Act's section 7(a)(2) consultation process and result in unnecessary delays in project reviews. These unintended consequences would thwart the conservation purposes of the Act. See *Purdue Univ.* v. *Scalia,* No. CV–20–3006 (EGS), 2020 WL 7340156, at 8 (D.D.C. Dec. 14, 2020).

As noted above, we are currently developing tools that will aid in the conservation and recovery of the northern long-eared bat. These tools are necessary to for the Service to review a large number of projects in a short period of time and ensure that projects proceed while necessary and appropriate conservation measures are implemented. Our agency's ''due and timely execution of its functions'' under the Act would be unavoidably prevented if we allow the effective date to be triggered without the conservation tools and guidance described above. See S. Doc. No. 248, 79th Cong., 2d Sess. At 200 (1946). That is, if the November 30, 2022, final rule reclassifying the northern long-eared bat as an endangered species under the Act (87 FR 73488) becomes effective on January 30, 2023, the 4(d) rule will be nullified and a large number of projects will require re-initiation of consultation under section 7(a)(2) of the Act without proper guidance in place to streamline consultation while ensuring consistent application of measures for the conservation of the northern long-eared bat. Thus, at least 3,095 ongoing projects will be suspended and planned projects delayed, and we will not have met our obligations under the Act to provide required protections for listed species. See *Tennessee Valley Authority* v. *Hill,* 437 U.S. 153, 174 (1978) (in enacting the Act, it is ''beyond doubt that Congress intended endangered species to be afforded the highest of priorities'').

Specifically, once the reclassification becomes effective, Federal agencies will have to work with the Service to determine whether and for which actions we need to provide an ITS per 50 CFR 402.14(i)(1) while also ensuring that these actions are not likely to jeopardize the species. The ITS would include terms and conditions for the Federal agencies to implement to ensure that the taking of the northern long-eared bat that occurs is not a prohibited taking when the November 30, 2022, final rule becomes effective. A lack of tools and guidance that would streamline consultations could lead to confusion and disruption for Federal agencies with follow-on effects to Federal contractors and any project receiving Federal funds. Even if the November 30, 2022, final rule were to become effective only briefly during a public comment period, the level of uncertainty with respect to the Service's conservation direction would cause significant confusion and disruption in the section 7(a)(2) consultation process and impede the Federal agencies from executing their conservation mandates. We also expect confusion and project delays for non-Federal projects as entities determine whether or not they need take coverage for their activities under section 10(a)(1)(B) of the Act. The tools and guidance documents will also help private landowners evaluate their risk of taking northern long-eared bats.

In sum, we find that the totality of the circumstances here—the potential for many projects to be delayed and the threat to the Service's execution of its statutory functions, among other issues—indicate that there is good cause to forgo notice and comment procedures. It is impractical and contrary to the public interest for the Service to provide notice and an opportunity to comment on a 60-day delay of the effective date of January 30, 2023, for the November 30, 2022, final rule (87 FR 73488).

We also find that there is good cause to make this rule effective immediately instead of waiting until 30 days after publication for it to become effective. The APA normally requires this 30-day ''grace period'' to give affected parties time to adjust their behavior before a final rule takes effect. See, *e.g., Riverbend Farms, Inc.* v. *Madigan,* 958 F.2d 1479, 1485 (9th Cir. 1992). However, the APA provides an exception to this 30-day grace period for

good cause (5 U.S.C. 553(d)). There is good cause to allow this 60-day delay of the November 30, 2022, final rule's effective date to go into effect immediately because the November 30, 2022, final rule would go into effect on January 30, 2023, if this rule delaying the effective date were itself not to become effective for 30 days. That result would create the same issues as discussed above, *i.e.,* prevent the Service from performing its functions, create confusion and disruption in the Act's section 7(a)(2) consultation process, result in unnecessary delays in project approvals, and thwart the conservation purposes of the Act. Additionally, the northern long-eared bat is unlikely to be harmed by this delay because the species will continue to be protected under the Act as a threatened species and it is hibernating throughout the vast majority of its range (typically through the end of March) during this time.

We, therefore, conclude that we have good cause to issue this final rule, effective immediately, delaying the effective date of the November 30, 2022, final rule (87 FR 73488) from January 30, 2023, to March 31, 2023.

III. Authority

The authorities for this action are 16 U.S.C. 1361–1407, 1531–1544, and 4201–4245, unless otherwise noted; and 5 U.S.C. 551 *et seq.*

Martha Williams,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 2023–01656 Filed 1–25–23; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 221206–0261]

RIN 0648–BM02

Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; 2023–2024 Biennial Specifications and Management Measures; Inseason Adjustments

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

ACTION: Final rule; inseason adjustments to biennial groundfish management measures.

SUMMARY: This final rule announces routine inseason adjustments to management measures in commercial and recreational groundfish fisheries. This action is intended to allow fishing vessels to access more abundant groundfish stocks while protecting rebuilding stocks.

DATES: This final rule is effective January 26, 2023.

ADDRESSES: *Electronic Access:* This rule is accessible via the internet at the Office of the Federal Register website at *https://www.federalregister.gov.* Background information and documents are available at the Pacific Fishery Management Council's website at *http://www.pcouncil.org/.*

FOR FURTHER INFORMATION CONTACT: Dr. Sean Matson, phone: 206–526–6187 or email: *sean.matson@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Pacific Coast Groundfish Fishery Management Plan (PCGFMP) and its implementing regulations at title 50 in the Code of Federal Regulations (CFR), part 660, subparts C through G, regulate fishing for over 90 species of groundfish seaward of Washington, Oregon, and California. The Pacific Fishery Management Council (Council) develops groundfish harvest specifications and management measures for 2-year periods (biennia). NMFS published the final rule to implement harvest specifications and management measures for the 2023–2024 biennium for most species managed under the PCGFMP on December 16, 2022 (87 FR 77007). The management measures set at the start of the biennial harvest specifications cycle help the various sectors of the fishery attain, but not exceed, the catch limits for each stock. The Council, in coordination with Pacific Coast Treaty Indian Tribes and the States of Washington, Oregon, and California, recommends adjustments to the management measures during the fishing year to achieve this goal.

At its November 2022 meeting, the Council recommended modifying fixed gear trip limits for limited entry (LE) and open access (OA) sablefish, north of 36° N latitude, for LE canary rockfish north and south of 40°10′ N latitude, and for LE and OA lingcod north of 42° N latitude; as well as modifying bag limits in the Oregon recreational long-leader fishery, after updated information regarding projected catch and attainment became available, as well as requests from industry. Pacific Coast groundfish fisheries are managed using harvest specifications or limits (*e.g.,* overfishing limits [OFL], acceptable biological catch [ABC], annual catch limits [ACL] and harvest guidelines [HG]) recommended biennially by the Council and based on the best scientific information available at that time (50 CFR 660.60(b)). During development of the harvest specifications, the Council also recommends management measures (*e.g.,* trip limits, area closures, and bag limits) that are meant to control catch so as not to exceed the harvest specifications. The harvest specifications and management measures developed for the 2023–2024 biennium used data through the 2021 fishing year. Each of the adjustments to management measures discussed below are based on updated fisheries information that was unavailable when the analysis for the current harvest specifications was completed. As new fisheries data becomes available, adjustments to management measures are projected so as to help harvesters achieve but not exceed the harvest limits.

Sablefish

Sablefish is an important commercial species on the West Coast with vessels targeting sablefish with both trawl and fixed gear (longlines and pots/traps). Sablefish is managed with separate ACLs for the two areas north and south of 36° N lat. The 2023 ACLs for the North and South are 8,486 mt and 2,338 mt, respectively.

At the November 2022 Council meeting, the Council's Groundfish Management Team (GMT) received requests from industry members and members of the Council's Groundfish Advisory Subpanel (GAP) to examine the potential to increase sablefish trips limits for the fixed gear, LE and OA fisheries north of 36° N lat. The intent of increasing trip limits is to increase harvest opportunities for vessels targeting sablefish. To evaluate potential increases to sablefish trip limits for the LE and OA fisheries, the GMT made model-based landings projections under current regulations and alternative sablefish trip limits, including the limits ultimately recommended by the Council, through the remainder of 2023. Table 1 shows the projected sablefish landings by fishery, relevant sablefish allocations, and the projected attainment as a percentage of the landing target, under both the current trip limits and the Council's recommended adjusted trip limits. These projections were based on the most recent catch information available through late October 2022. Since industry did not request changes to sablefish trip limits for either the LE or

OA fishery south of 36° N lat., NMFS and the Council did not consider trip limit changes for those southern fisheries at this time.

TABLE 1—PROJECTED LANDINGS, ALLOCATION, AND PROJECTED PERCENTAGE OF SABLEFISH ATTAINED THROUGH 2023 BY TRIP LIMIT AND FISHERY

[Values in parentheses show uncertainty range]

Fishery	Trip limits	Projected landings (mt)	Landing target (mt)	Projected target attainment (percent)
LE North of 36° N lat	Current: 2,400 lb/week, not to exceed 4,800 lb/two months.	151 (117–186)	417	36 (28–45)
	Recommended: 4,500 lb/week, not to exceed 9,000 lb/two months.	253 (196–310)	.....	61 (47–74)
OA North of 36° N lat	Current: 2,000 lb/week, not to exceed 4,000 lb/two months.	322 (278–367)	687	47 (40–53)
	Recommended: 3,000 lb/week, not to exceed 6,000 lb/two months.	448 (386–509)	.....	65 (56–74)

As shown in Table 1, under the current trip limits, the models predict landings of sablefish will be at 36 percent, or 151 mt of the 417 mt landing target (the target is the allocation share converted to landings, reduced for discard mortality) for LE fishery north of 36° N lat.; and 47 percent, or 322 mt of the 687 mt landing target, for the OA fishery north of 36° N lat. Under the Council's recommended trip limits, sablefish attainment is projected to increase in the LE and OA fisheries north of 36° N lat., to 61 and 65 percent, respectively.

Trip limit increases for sablefish are intended to increase attainment of the non-trawl HG. The proposed trip limit increases do not change projected impacts to co-occurring overfished species compared to the impacts anticipated in the 2023–2024 harvest specifications because the projected impacts to those species assume that the entire sablefish ACL is harvested. Therefore, the Council recommended and NMFS is implementing, by modifying Tables 2 North and South to part 660, subpart E, and Tables 3 North and South to part 660, subpart F, trip limit changes for the LE sablefish fishery north of 36° N lat. and trip limit changes for the OA sablefish fishery north of 36° N lat. as shown above in Table 1. These changes will start with Period 1 (January and February) and remain in place through the end of 2023 and beyond, unless otherwise modified.

Canary Rockfish

Prior to the November 2022 meeting, the GMT received a request from the GAP to increase the canary rockfish OA north of 40°10′ N lat. trip limit both to enable a viable alternative to potentially limited Dungeness crab fishing opportunities at the beginning of the year, and to better align with the yellowtail rockfish trip limit in order to reduce regulatory discarding of canary rockfish. The 2023 coastwide ACL for canary rockfish is 1,284 mt.

To evaluate potential increases to canary rockfish trip limits, the GMT made model-based landings projections under current regulations and alternative trip limits, including the limits ultimately recommended by the Council, for the LE and OA fisheries throughout the 2023 fishing year. The GMT evaluated changes to the trip limits for canary rockfish both north and south of 40°10′ N lat. Table 2 shows the projected canary rockfish landings, the canary rockfish allocations, and the projected attainment percentage by fishery under both the current trip limits and the Council's recommended adjusted trip limits for north of 40°10′ N lat. and Table 3 shows the same metrics for south of 40°10′ N lat. These projections were based on the most recent catch information available through late October 2022.

TABLE 2—PROJECTED LANDINGS AND ATTAINMENT FOR CANARY ROCKFISH, FOR THE 2023 FISHING YEAR BY FISHERY, AREA, AND TRIP LIMIT, UNDER CURRENT REGULATIONS

Fishery	Trip limit	Projected landings (mt)	Projected sum landings (mt)	Percent attainment 2023 non-trawl share (121.2 mt)
LE North of 40°10′ N lat	3,000 lb/two months	4.2	27.5	23
OA North of 40°10′ N lat	1,000 lb/two months	5.2	.....	.....
LE South of 40°10′ N lat	3,500 lb/two months	5.9	.....	.....
OA South of 40°10′ N lat	1,500 lb/two months	12.2	.....	.....

TABLE 3—PROJECTED LANDINGS AND ATTAINMENT FOR CANARY ROCKFISH, FOR THE 2023 FISHING YEAR BY FISHERY, AREA, AND TRIP LIMIT, UNDER COUNCIL-RECOMMENDED TRIP LIMITS

Fishery	Trip limit	Projected landings (mt)	Projected sum landings (mt)	Percent attainment 2023 non-trawl share (121.2 mt)
LE North of 40°10′ N lat	4,000 lb/two months	5.6	39	32

TABLE 3—PROJECTED LANDINGS AND ATTAINMENT FOR CANARY ROCKFISH, FOR THE 2023 FISHING YEAR BY FISHERY, AREA, AND TRIP LIMIT, UNDER COUNCIL-RECOMMENDED TRIP LIMITS—Continued

Fishery	Trip limit	Projected landings (mt)	Projected sum landings (mt)	Percent attainment 2023 non-trawl share (121.2 mt)
OA North of 40°10′ N lat	2,000 lb/two months	10.4		
LE South of 40°10′ N lat	4,000 lb/two months	6.8		
OA South of 40°10′ N lat	2,000 lb/two months	16.2		

Under the current trip limits, the model predicts catches of canary rockfish coastwide will total 27.5 mt (including discard mortality), which is 23 percent of the 2023 non-trawl commercial share of canary rockfish (121.2 mt). Under the Council's recommended trip limits, canary rockfish mortality is expected to increase to 39 mt coastwide (including discard mortality), which is 32 percent of the 2023 non-trawl commercial share of canary rockfish.

Trip limit increases for canary rockfish are intended to increase attainment of the non-trawl commercial share. The proposed trip limit increases do not change projected impacts to co-occurring overfished species compared to the impacts anticipated in the 2023–2024 harvest specifications because the projected impacts to those species assume that the entire canary rockfish ACL is harvested. Therefore, the Council recommended and NMFS is implementing, by modifying Tables 2 North and South to part 660, subpart E, and Tables 3 North and South to part 660, subpart F, trip limit changes for LE canary rockfish north and south of 40°10′ N lat. and trip limit changes for OA canary rockfish fishery north and south of 40°10′ N lat. as shown above in Tables 2 and 3. These changes will start with Period 1 (January and February) and remain in place through the end of 2023 and beyond, unless otherwise modified.

Lingcod

For the November 2022 meeting, the GMT also received a request to continue the lingcod trip limits north of 42° N lat. at the same levels from Period 6 of 2022, in order to continue the effect of reduced regulatory discarding and increased economic opportunity. Lingcod is managed with an ACL north of 40°10′ N lat. and an ACL south of 40°10′ N lat. The 2023 ACL for lingcod north of 40°10′ N lat. is 4,378 mt.

To evaluate potential impacts of the requested increases to lingcod trip limits north of 42° N lat., the GMT made model-based landings projections under current regulations and alternative trip limits, including the limits ultimately recommended by the Council, for the LE and OA fisheries for 2023. Table 4 shows the projected lingcod landings, the lingcod allocations, the projected attainment percentage, and accompanying estimated yelloweye rockfish impacts by fishery, under both the current trip limits and the Council's recommended adjusted trip limits for north of 42° N lat. These projections were based on the most recent catch information available through October 2022.

TABLE 4—PROJECTED LANDINGS OF LINGCOD, LINGCOD ALLOCATION, PROJECTED PERCENTAGE OF LINGCOD NORTH OF 42° N LAT. ATTAINED THROUGH THE END OF THE YEAR BY TRIP LIMIT AND FISHERY, TOGETHER WITH PROJECTED YELLOWEYE ROCKFISH IMPACTS

Fishery	Trip limits	Projected lingcod landings (mt)	Non-trawl lingcod allocation (mt)	Projected lingcod attainment (percent)	Projected yelloweye rockfish impacts (mt)
LE North of 42° N lat	Current: 5,000 lb/two months	24.3	2,573.8	5.2	1.11
OA North of 42° N lat	Current: 2,500 lb/month	110.4			
LE North of 42° N lat	Recommended: 7,000 lb/two months	30.0	2573.8	6.2	1.32
OA North of 42° N lat	Recommended: 3,500/month	129.4			

Under the current trip limits, the model predicts catches of lingcod north of 42° N lat. will total 134.7 mt, which is 5.2 percent of the 2023 non-trawl allocation of lingcod (2,573.8 mt). Under the Council's recommended trip limits, lingcod mortality north of 42° N lat. is expected to increase to 159.4 mt, which is 6.2 percent of the 2023 non-trawl allocation of lingcod (2,573.8 mt).

Trip limit increases for lingcod are intended to marginally increase attainment of the non-trawl allocation. The proposed trip limit increases do not appreciably change projected impacts to co-occurring rebuilding species (yelloweye rockfish) compared to the impacts anticipated in the 2023–2024 harvest specifications (Table 4). At the higher level of the lingcod non-trawl allocation, projected impacts to yelloweye rockfish are still projected to be the same under either current or recommended trip limits (3.9 mt), due a projection of yelloweye bycatch levels assuming the entire lingcod allocation is attained, in the harvest specifications analysis.

Therefore, the Council recommended and NMFS is implementing, by modifying Table 2 North to part 660, subpart E, and Table 3 North to part 660, subpart F, trip limit changes for LE and OA lingcod north of 42° N lat. as shown above in Table 4. These changes will start with Period 1 (January and February) and remain in place through the end of 2023 and beyond, unless otherwise modified.

Oregon Recreational Long-Leader Fishery

At the November 2022 Council meeting, the GMT and ODFW received requests from members of industry and

the GAP, to examine the potential for increasing the daily bag limit in the Oregon recreational long-leader fishery to more than the current 10 fish per day. Increasing the daily bag limit is intended to encourage additional anglers to participate in the long-leader fishery, in order to reduce effort on nearshore stocks such as black, China, copper, and quillback rockfishes because the 2023–24 harvest limits for many nearshore rockfish stocks are very small. At the same time, Oregon experienced record groundfish effort in 2022, which fits within a continuing trend of high effort since 2015 forward, and implies similar fishery behavior in 2023. Impacts of the proposed action were analyzed by ODFW staff, and the Council ultimately recommended the daily bag limit in the Oregon recreational long-leader fishery to be increased from 10 to 15 fish per day.

ODFW staff presented an analysis in which they deterministically projected 2023 catch by expanding results of the long-leader EFP (2018–2022), to simulate potential catch under a 15 fish per day limit. The results appear in Table 5. ODFW staff found that the increases in catch were small and well within relevant harvest specifications.

TABLE 5—ODFW'S PROJECTED ANNUAL IMPACTS IN MT (SALMON = COUNTS), FOR 15 FISH AND 10 FISH PER DAY BAG LIMIT USING LONG-LEADER GEAR [a]

Species	Projected average catch (recommended)	Projected max (recommended)	Hist. avg. with 10 fish limit (current)	Potential max additional impacts (proj. max − current avg.)
Yellowtail RF	23.58	39.87	15.72	24.15
Widow RF	4.47	10.24	2.98	7.26
Canary RF	12.84	17.13	8.56	8.58
Silvergray RF	0.12	0.22	0.08	0.14
Redstripe RF	0.02	0.03	0.01	0.01
Greenstriped RF	0.01	0.02	0.01	0.01
Chillipepper RF	0.02	0.09	0.02	0.08
Deacon RF	0.14	0.33	0.09	0.24
Black RF	0.01	0.03	0.01	0.03
Blue RF	0.01	0.03	0.01	0.03
Yelloweye RF (discard mortality)	0.2	0.29	0.13	0.16
Quillback RF	0	0	0	0
Bocaccio	1.89	4.11	1.26	2.85
Vermilion RF	0	0	0	0
Copper RF	0	0	0	0
Chinook Salmon	32	96	21	75
Coho Salmon	217	561	145	416

[a] Columns from left to right: Species; Projected average catch w/15 fish per day limit (recommended); Projected maximum catch with 15 fish per day limit (recommended); Historical average catch using 10 fish per day limit (current); Potential maximum additional impacts (difference between Projected Maximum and Historical average under 10-fish limit (current), column 3 minus column 4).

Using a conservative approach (risk averse), using the difference between the expanded (1.5x) maximum annual actual catch from the 5-year period, and subtracting the average actual catch from the same period, ODFW staff provided an estimate of ''Potential maximum additional impacts'' (far right column, Table 5), as projections of maximum potential additional catch as a result of increasing the bag limit from 10 to 15 fish. As evidence of inconsequential impacts to the ACLs, the analysis also compared the ''potential maximum additional impacts'', with the amount of uncaught fish for each species, in the most recent fishing year (2021), noting that for species other than yellowtail, canary, widow, and yelloweye rockfish, the projected maximum impacts were less than 0.3 mt, and thus were not presented (Table 6). For those species with projected maximum catch greater than 0.3 mt, 2021 catch statistics (most recent complete data year available) showed sizable buffers in attainment of the non-trawl allocation, which would easily absorb the projected additional mortality of this action (Table 6).

TABLE 6—2021 HARVEST SPECIFICATIONS, SECTOR-SPECIFIC ALLOCATIONS, AND MORTALITY ESTIMATES, AND 2023 PROJECTIONS (RIGHT COLUMN) FOR YELLOWTAIL, WIDOW, CANARY, YELLOWEYE, AND BOCACCIO ROCKFISHES

Species	ACL	Total mortality	Percent of ACL attainment	Non-trawl allocation	Non-trawl mort.	% of non-trawl allocation	OR rec. HG	OR rec. mort.	Potential max addition. impacts
Yellowtail	6,050	2,931	48	601.5	96	16	N/A	28	24.2
Widow	14,725	10,880	74	400	11.5	3	N/A	3.6	7.3
Canary	1,338	562	42	351.6	178.3	51	65.06	38.5	8.6
Yelloweye	50	18	36	37.9	16.7	44	6.9	3.3	0.16
Bocaccio north of 40°10′ N lat	221	89	40	N/A	N/A	N/A	N/A	0.5	2.9

The proposed bag limit increases do not appreciably change projected impacts to co-occurring rebuilding species (yelloweye rockfish) compared to the impacts anticipated in the 2023–2024 harvest specifications (Table 6). Therefore the Council recommended, and NMFS is implementing, trip limit changes for the Oregon recreational long-leader fishery from 10 to 15 fish per day, by modifying 50 CFR part 660.360, subpart G, paragraph (c)(2)(iii)(A)(Marine fish) to maintain the previous restrictions, and place a separate bag limit on the long-leader

fishery only. The new paragraph text will read: ''(A) Marine fish. The bag limit is 10 marine fish per day, which includes rockfish, kelp greenling, cabezon and other groundfish species; except the daily bag limit in the long-leader gear fishery is 15 fish per day. The bag limit of marine fish excludes Pacific halibut, salmonids, tuna, perch species, sturgeon, sanddabs, flatfish, lingcod, striped bass, hybrid bass, offshore pelagic species and baitfish (herring, smelt, anchovies and sardines). The minimum size for cabezon retained in the Oregon recreational fishery is 16 in (41 cm) total length.'' These changes will be effective beginning in January, 2023 and remain in place through the end of 2023 and beyond, unless otherwise modified.

Classification

This final rule makes routine inseason adjustments to groundfish fishery management measures, based on the best scientific information available, consistent with the PCGFMP and its implementing regulations.

This action is taken under the authority of 50 CFR 660.60(c) and is exempt from review under Executive Order 12866.

The aggregate data upon which these actions are based, are available for public inspection by contacting Dr. Sean Matson in NMFS West Coast Region (see **FOR FURTHER INFORMATION CONTACT**, above), or view at the NMFS West Coast Groundfish website: *https://www.fisheries.noaa.gov/species/west-coast-groundfish*.

Pursuant to 5 U.S.C. 553(b), NMFS finds good cause to waive prior public notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest. The adjustments to management measures in this document increase trip limits for fisheries in Washington, Oregon, and California to allow additional economic opportunity while keeping catch within allocations established by the 2023–2024 harvest specifications. The trip limit increases are for the LE and OA sectors for sablefish north of 36° N lat., canary rockfish, and lingcod north of 42° N lat. Over the year 2023, these changes are projected to potentially increase economic value of the fisheries by $989,793 for sablefish, $71,025 for canary, and $122,777 for lingcod, as well as reduce regulatory discards in these fisheries. The increases to bag limits in the Oregon recreational long-leader fishery are needed to encourage seaward effort redistribution, in order to prevent conservation issues in the nearshore. No aspect of this action is controversial, and changes of this nature were anticipated in the final rule for the 2023–2024 harvest specifications and management measures which published on December 16, 2022 (87 FR 77007).

Delaying implementation to allow for public comment would likely reduce the economic benefits to the commercial fishing industry and the businesses that rely on that industry, because it is unlikely the new regulations would publish and could be implemented in time to realize the projected benefits to fishing communities and the resource. A delay in implementation could also contribute to conservation issues with nearshore rockfish species, without swift implementation incentives for seaward redistribution of recreational fishing effort in the Oregon recreational long-leader fishery. Therefore, providing a comment period for this action could significantly limit the economic benefits to the fishery, and would hamper the achievement of optimum yield from the affected fisheries.

Therefore, the NMFS finds reason to waive the 30-day delay in effectiveness pursuant to 5 U.S.C. 553(d)(1) so that this final rule may become effective upon publication in the **Federal Register**. The adjustments to management measures in this document affect fisheries by increasing opportunity and allowing greater economic benefit. These adjustments were requested by the Council's advisory bodies, as well as members of industry during the Council's November 2022 meeting, and recommended unanimously by the Council. No aspect of this action is controversial, and changes of this nature were anticipated in the biennial harvest specifications and management measures established through a notice and comment rulemaking for 2023–2024 (87 FR 77007).

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, and Indian Fisheries.

Authority: 16 U.S.C. 1801 *et seq.,* 16 U.S.C. 773 *et seq.,* and 16 U.S.C. 7001 *et seq.*

Dated: January 23, 2023.

Kelly Denit,

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

For the reasons set out in the preamble, 50 CFR part 660 is amended as follows:

PART 660—FISHERIES OFF WEST COAST STATES

■ 1. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.,* 16 U.S.C. 773 *et seq.,* and 16 U.S.C. 7001 *et seq.*

■ 2. Revise Table 2 (North) to part 660, subpart E, to read as follows:

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Table 2 (North) to Part 660, Subpart E -- Non-Trawl Rockfish Conservation Areas and Trip Limits for Limited Entry Fixed Gear North of 40°10' N lat.

Other limits and requirements apply -- Read §§660.10 through 660.399 before using this table 1/16/2023

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
Rockfish Conservation Area (RCA)[1/]:							
1	North of 46°16' N lat.	shoreline - 100 fm line[1/]					
2	46°16' N lat. - 40°10' N lat.	30 fm line[1/] - 100 fm line[1/]					
See §§660.60 and 660.230 for additional gear, trip limit and conservation area requirements and restrictions. See §§660.70-660.74 and §§660.76-660.79 for conservation area descriptions and coordinates (including RCAs, YRCAs, CCAs, Farallon Islands, Cordell Bank, and EFHCAs).							
State trip limits and seasons may be more restrictive than Federal trip limits or seasons, particularly in waters off Oregon and California.							
3	**Minor Slope Rockfish[2/] & Darkblotched rockfish**	8,000 lb/ 2 months					
4	**Pacific ocean perch**	3,600 lb/ 2 months					
5	**Sablefish**	4,500 lb/ week, not to exceed 9,000 lb /2 months					
6	**Longspine thornyhead**	10,000 lb/ 2 months					
7	**Shortspine thornyhead**	2,000 lb/ 2 months			2,500 lb/ 2 months		
8	**Dover sole, arrowtooth flounder, petrale sole, English sole, starry flounder, Other Flatfish[3/ 7/]**	10,000 lb/ month					
9							
10							
11	**Whiting**	10,000 lb/ trip					
12	**Minor Shelf Rockfish[2/]**	800 lb/ month					
13	**Widow rockfish**	4,000 lb/ 2 months					
14	**Yellowtail rockfish**	3,000 lb/ month					
15	**Canary rockfish**	4,000 lb/ 2 months					
16	**Yelloweye rockfish**	CLOSED					
17	**Minor Nearshore Rockfish, Oregon black/blue/deacon rockfish, & black rockfish[4/]**						
18	North of 42°00' N lat.	5,000 lb/ 2 months, no more than 1,200 lb of which may be species other than black rockfish or blue/deacon rockfish[3/]					
19	42°00' N lat. - 40°10' N lat. Minor Nearshore Rockfish	2,000 lb/ 2 months, of which no more than 75 lb may be quillback rockfish, and of which no more than 75 lb may be copper rockfish					
20	42°00' N lat. - 40°10' N lat. Black Rockfish	7,000 lb/ 2 months					
21	**Lingcod[5/]**						
22	North of 42°00' N lat.	7,000 lb/ 2 months					
23	42°00' N lat. - 40°10' N lat.	2,000 lb/ 2 months					
24	**Pacific cod**	1,000 lb/ 2 months					
25	**Spiny dogfish**	200,000 lb/ 2 months		150,000 lb/ 2 months	100,000 lb/ 2 months		
26	**Longnose skate**	Unlimited					
27	**Other Fish[6/]& Cabezon in California**	Unlimited					
28	**Oregon Cabezon/Kelp Greenling**	Unlimited					
29	**Big skate**	Unlimited					

TABLE 2 (North)

1/ The Rockfish Conservation Area is an area closed to fishing by particular gear types, bounded by lines specifically defined by latitude and longitude coordinates set out at §§ 660.71-660.74. This RCA is not defined by depth contours (with the exception of the 20-fm depth contour boundary south of 42° N lat.), and the boundary lines that define the RCA may close areas that are deeper or shallower than the depth contour. Vessels that are subject to RCA restrictions may not fish in the RCA, or operate in the RCA for any purpose other than transiting.

2/ Minor Shelf and Slope Rockfish complexes are defined at § 660.11. Bocaccio, chilipepper and cowcod are included in the trip limits for Minor Shelf Rockfish. Splitnose rockfish is included in the trip limits for Minor Slope Rockfish.

3/ "Other flatfish" are defined at § 660.11 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.

4/ For black rockfish north of Cape Alava (48°09.50' N lat.), and between Destruction Is. (47°40' N lat.) and Leadbetter Pnt. (46°38.17' N lat.), there is an additional limit of 100 lb or 30 percent by weight of all fish on board, whichever is greater, per vessel, per fishing trip.

5/ The minimum size limit for lingcod is 22 inches (56 cm) total length North of 42° N lat. and 24 inches (61 cm) total length South of 42° N lat.

6/ "Other Fish" are defined at § 660.11 and include kelp greenling off California and leopard shark.

7/ LEFG vessels may be allowed to fish inside groundfish conservation areas using hook and line only. See § 660.230 (d) of the regulations for more information.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

■ 3. Revise Table 2 (South) to part 660, subpart E, to read as follows:

Table 2 (South) to Part 660, Subpart E -- Non-Trawl Rockfish Conservation Areas and Trip Limits for Limited Entry Fixed Gear South of 40°10' N lat.

Other limits and requirements apply -- Read §§660.10 through 660.399 before using this table 1/16/2023

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
Rockfish Conservation Area (RCA)[1/]:							
1	40°10' N lat. - 38°57.5' N lat.	40 fm line[1/] - 125 fm line[1/]					
2	38°57.5' N lat. -34°27' N lat.	50 fm line[1/] - 125 fm line[1/]					
3	South of 34°27' N lat.	100 fm line[1/] - 150 fm line[1/] (also applies around islands)					
See §§660.60 and 660.230 for additional gear, trip limit and conservation area requirements and restrictions. See §§660.70-660.74 and §§660.76-660.79 for conservation area descriptions and coordinates (including RCAs, YRCAs, CCAs, Farallon Islands, Cordell Banks, and EFHCAs).							
State trip limits and seasons may be more restrictive than Federal trip limits or seasons, particularly in waters off Oregon and California.							
4	**Minor Slope rockfish[2/] & Darkblotched rockfish**	40,000 lb/ 2 months, of which no more than 6,000 lb may be blackgill rockfish					
5	**Splitnose rockfish**	40,000 lb/ 2 months					
6	**Sablefish**						
7	40°10' N lat. - 36°00' N lat.	4,500 lb/ week, not to exceed 9,000 lb /2 months					
8	South of 36°00' N lat.	2,500 lb/ week					
9	**Longspine thornyhead**	10,000 lb/ 2 months					
10	**Shortspine thornyhead**						
11	40°10' N lat. - 34°27' N lat.	2,000 lb/ 2 months			2,500 lb/ 2 months		
12	South of 34°27' N lat.	3,000 lb/ 2 months					
13 14 15	**Dover sole, arrowtooth flounder, petrale sole, English sole, starry flounder, Other Flatfish[3/8/]**	10,000 lb/ month					
16	**Whiting**	10,000 lb/ trip					
17	**Minor Shelf Rockfish[2/]**						
18	40°10' N lat. - 34°27' N lat.	8,000 lb/ 2 months, of which no more than 500 lb may be vermilion					
19	South of 34°27' N lat.	5,000 lb/ 2 months, of which no more than 3,000 lb may be vermilion					
20	**Widow**						
21	40°10' N lat. - 34°27' N lat.	10,000 lb/ 2 months					
22	South of 34°27' N lat.	8,000 lb/ 2 months					
23	**Chilipepper**						
24	40°10' N lat. - 34°27' N lat.	10,000 lb. / 2 months					
25	South of 34°27' N lat.	8,000 lb. / 2 months					
26	**Canary rockfish**	4,000 lb/ 2 months					
27	**Yelloweye rockfish**	CLOSED					
28	**Cowcod**	CLOSED					
29	**Bronzespotted rockfish**	CLOSED					
30	**Bocaccio**	6,000 lb/ 2 months					
31	**Minor Nearshore Rockfish**						
32	Shallow nearshore[4/]	2,000 lb/ 2 months					
33	Deeper nearshore[5/]	2,000 lb/ 2 months, of which no more than 75 lb may be quillback rockfish, and of which no more than 75 lb may be copper rockfish					
34	**California Scorpionfish**	3,500 lb/ 2 months					
35	**Lingcod[6/]**	1,600 lb / 2 months					
36	**Pacific cod**	1,000 lb/ 2 months					
37	**Spiny dogfish**	200,000 lb/ 2 months		150,000 lb/ 2 months	100,000 lb/ 2 months		
38	**Longnose skate**	Unlimited					
39	**Other Fish[7/] & Cabezon in California**	Unlimited					
40	**Big Skate**	Unlimited					

TABLE 2 (South)

1/ The Rockfish Conservation Area is an area closed to fishing by particular gear types, bounded by lines specifically defined by latitude and longitude coordinates set out at §§ 660.71-660.74. This RCA is not defined by depth contours (with the exception of the 20-fm depth contour boundary south of 42° N lat.), and the boundary lines that define the RCA may close areas that are deeper or shallower than the depth contour. Vessels that are subject to RCA restrictions may not fish in the RCA, or operate in the RCA for any purpose other than transiting.

2/ Minor Shelf and Slope Rockfish complexes are defined at § 660.11. Pacific ocean perch is included in the trip limits for Minor Slope Rockfish. Blackgill rockfish have a species specific trip sub-limit within the Minor Slope Rockfish cumulative limit. Yellowtail rockfish are included in the trip limits for Minor Shelf Rockfish. Bronzespotted rockfish have a species specific trip limit.

3/ "Other Flatfish" are defined at § 660.11 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.

4/ "Shallow Nearshore" are defined at § 660.11 under "Groundfish" (7)(i)(B)(*1*).

5/ "Deeper Nearshore" are defined at § 660.11 under "Groundfish" (7)(i)(B)(*2*).

6/ The commercial mimimum size limit for lingcod is 24 inches (61 cm) total length South of 42° N lat.

7/ "Other Fish" are defined at § 660.11 and include kelp greenling off California and leopard shark.

8/ LEFG vessels may be allowed to fish inside groundfish conservation areas using hook and line only. See § 660.230 (d) of the regulations for more information.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

■ 4. Revise Table 3 (North) to part 660, subpart F, to read as follows:

Table 3 (North) to Part 660, Subpart F -- Non-Trawl Rockfish Conservation Areas and Trip Limits for Open Access Gears North of 40°10' N lat.

Other limits and requirements apply -- Read §§660.10 through 660.399 before using this table

1/16/2023

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
	Rockfish Conservation Area (RCA)[1/]:						
1	North of 46°16' N lat.	shoreline - 100 fm line[1/]					
2	46°16' N lat. - 40°10' N lat.	30 fm line[1/] - 100 fm line[1/]					
	See §§660.60, 660.330 and 660.333 for additional gear, trip limit and conservation area requirements and restrictions. See §§660.70-660.74 and §§660.76-660.79 for conservation area descriptions and coordinates (including RCAs, YRCAs, CCAs, Farallon Islands, Cordell Bank, and EFHCAs).						
	State trip limits and seasons may be more restrictive than Federal trip limits or seasons, particularly in waters off Oregon and California.						
3	**Minor Slope Rockfish[2/] & Darkblotched rockfish**	2,000 lb/ month					
4	**Pacific ocean perch**	100 lb/ month					
5	**Sablefish**	3,000 lb/ week, not to exceed 6,000 lb/ 2 months					
6	**Shortpine thornyheads**	50 lb/ month					
7	**Longspine thornyheads**	50 lb/ month					
8 9 10	**Dover sole, arrowtooth flounder, petrale sole, English sole, starry flounder, Other Flatfish[3/ 7/]**	5,000 lb/ month					
11	**Whiting**	300 lb/ month					
12	**Minor Shelf Rockfish[2/]**	800 lb/ month					
13	**Widow rockfish**	2,000 lb/ 2 months					
14	**Yellowtail rockfish**	1,500 lb/ month					
15	**Canary rockfish**	2,000 lb/ 2 months					
16	**Yelloweye rockfish**	CLOSED					
17	**Minor Nearshore Rockfish, Oregon black/blue/deacon rockfish, & black rockfish**						
18	North of 42°00' N lat.	5,000 lb/ 2 months, no more than 1,200 lb of which may be species other than black rockfish or blue/deacon rockfish[4/]					
19	42°00' N lat. - 40°10' N lat. Minor Nearshore Rockfish	2,000 lb/ 2 months, of which no more than 75 lb may be quillback rockfish, and of which no more than 75 lb may be copper rockfish					
20	42°00' N lat. - 40°10' N lat. Black rockfish	7,000 lb/ 2 months					
21	**Lingcod[5/]**						
22	North of 42°00' N lat.	3,500 lb/ month					
23	42°00' N lat. - 40°10' N lat.	1,000 lb/ month					
24	**Pacific cod**	1,000 lb/ 2 months					
25	**Spiny dogfish**	200,000 lb/ 2 months		150,000 lb/ 2 months	100,000 lb/ 2 months		
26	**Longnose skate**	Unlimited					
27	**Big skate**	Unlimited					
28	**Other Fish[6/] & Cabezon in California**	Unlimited					
29	**Oregon Cabezon/Kelp Greenling**	Unlimited					
30	**SALMON TROLL** *(subject to RCAs when retaining all species of groundfish, except for yellowtail rockfish and lingcod, as described below)*						
31	North	*Salmon trollers may retain and land up to 500 lb of yellowtail rockfish per month as long as salmon is on board, both within and outside of the RCA. Salmon trollers may retain and land up to 1 lingcod per 2 Chinook per trip, plus 1 lingcod per trip, up to a trip limit of 10 lingcod, on a trip where any fishing occurs within the RCA. The lingcod limit only applies during times when lingcod retention is allowed, and is not "CLOSED." Theses limits are within the per month limits described in the table above, and not in addition to those limits. All groundfish species are subject to the open access limits, seasons, size limits and RCA restrictions listed in the table above, unless otherwise stated here.*					
32	**PINK SHRIMP NON-GROUNDFISH TRAWL** *(not subject to RCAs)*						
33	North	Effective April 1 - October 31: Groundfish: 500 lb/day, multiplied by the number of days of the trip, not to exceed 1,500 lb/trip. The following sublimits also apply and are counted toward the overall 500 lb/day and 1,500 lb/trip groundfish limits: lingcod 300 lb/month (minimum 24 inch size limit); sablefish 2,000 lb/month; canary, thornyheads and yelloweye rockfish are PROHIBITED. All other groundfish species taken are managed under the overall 500 lb/day and 1,500 lb/trip groundfish limits. Landings of these species count toward the per day and per trip groundfish limits and do not have species-specific limits. The amount of groundfish landed may not exceed the amount of pink shrimp landed.					

TABLE 3 (North)

1/ The Rockfish Conservation Area is an area closed to fishing by particular gear types, bounded by lines specifically defined by latitude and longitude coordinates set out at §§ 660.71-660.74. This RCA is not defined by depth contours (with the exception of the 20-fm depth contour boundary south of 42° N lat.), and the boundary lines that define the RCA may close areas that are deeper or shallower than the depth contour. Vessels that are subject to RCA restrictions may not fish in the RCA, or operate in the RCA for any purpose other than transiting.

2/ Minor Shelf and Slope Rockfish complexes are defined at § 660.11. Bocaccio, chilipepper and cowcod rockfishes are included in the trip limits for Minor Shelf Rockfish. Splitnose rockfish is included in the trip limits for Minor Slope Rockfish.

3/ "Other flatfish" are defined at § 660.11 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.

4/ For black rockfish north of Cape Alava (48°09.50' N lat.), and between Destruction Is. (47°40' N lat.) and Leadbetter Pnt. (46°38.17' N lat.), there is an additional limit of 100 lbs or 30 percent by weight of all fish on board, whichever is greater, per vessel, per fishing trip.

5/ The minimum size limit for lingcod is 22 inches (56 cm) total length North of 42o N lat. and 24 inches (61 cm) total length South of 42° N lat.

6/ "Other fish" are defined at § 660.11 and include kelp greenling off California and leopard shark.

7/ Open access vessels may be allowed to fish inside groundfish conservation areas using hook and line only. See § 660.330 (d) of the regulations for more information.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

■ 5. Revise Table 3 (South) to part 660, subpart F, to read as follows:

Table 3 (South) to Part 660, Subpart F -- Non-Trawl Rockfish Conservation Areas and Trip Limits for Open Access Gears South of 40°10' N lat.

Other limits and requirements apply -- Read §§660.10 through 660.399 before using this table 1/16/2023

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
	Rockfish Conservation Area (RCA)[1/]:						
1	40°10' N lat. - 38°57.5' N lat.	40 fm line[1/] - 125 fm line[1/]					
2	38°57.5' N lat. -34°27' N lat.	50 fm line[1/] - 125 fm line[1/]					
3	South of 34°27' N lat.	100 fm line[1/] - 150 fm line[1/] (also applies around islands)					
	See §§660.60 and 660.230 for additional gear, trip limit and conservation area requirements and restrictions. See §§660.70-660.74 and §§660.76-660.79 for conservation area descriptions and coordinates (including RCAs, YRCAs, CCAs, Farallon Islands, Cordell Banks, and EFHCAs).						
	State trip limits and seasons may be more restrictive than Federal trip limits or seasons, particularly in waters off Oregon and California.						
4	**Minor Slope Rockfish[2/] & Darkblotched rockfish**	10,000 lb/ 2 months, of which no more than 2,500 lb may be blackgill rockfish					
5	**Splitnose rockfish**	200 lb/ month					
6	**Sablefish**						
7	40°10' N lat. - 36°00' N lat.	3,000 lb/ week, not to exceed 6,000 lb/ 2 months					
8	South of 36°00' N lat.	2,000 lb/ week, not to exceed 6,000 lb/ 2 months					
9	**Shortpine thornyheads**						
10	40°10' N lat. - 34°27' N lat.	50 lb/ month					
11	**Longspine thornyheads**						
12	40°10' N lat. - 34°27' N lat.	50 lb/ month					
13	**Shortpine thornyheads and longspine thornyheads**						
14	South of 34°27' N lat.	100 lb/ day, no more than 1,000 lb/ 2 months					
15	**Dover sole, arrowtooth flounder, petrale sole, English sole, starry flounder, Other Flatfish[3/8/]**	5,000 lb/ month					
16							
17							
18	**Whiting**	300 lb/ month					
19	**Minor Shelf Rockfish[2/]**						
20	40°10' N lat. - 34°27' N lat.	4,000 lb/ 2 months, of which no more than 400 lb may be vermilion					
21	South of 34°27' N lat.	3,000 lb/ 2 months, of which no more than 1,200 lb may be vermilion					
22	**Widow rockfish**						
23	40°10' N lat. - 34°27' N lat.	6,000 lb/ 2 months					
24	South of 34°27' N lat.	4,000 lb/ 2 months					
25	**Chilipepper**						
26	40°10' N lat. - 34°27' N lat.	6,000 lb/ 2 months					
27	South of 34°27' N lat.	4,000 lb/ 2 months					
28	**Canary rockfish**	2,000 lb/ 2 months					
29	**Yelloweye rockfish**	CLOSED					
30	**Cowcod**	CLOSED					
31	**Bronzespotted rockfish**	CLOSED					
32	**Bocaccio**	4,000 lb/ 2 months					
33	**Minor Nearshore Rockfish**						
34	Shallow nearshore[4/]	2,000 lb/ 2 months					
35	Deeper nearshore[5/]	2,000 lb/ 2 months, of which no more than 75 lb may be quillback rockfish, and of which no more than 75 lb may be copper rockfish					
36	**California Scorpionfish**	3,500 lb/ 2 months					
37	**Lingcod[6/]**	700 lb / month					
38	**Pacific cod**	1,000 lb/ 2 months					
39	**Spiny dogfish**	200,000 lb/ 2 months		150,000 lb/ 2 months	100,000 lb/ 2 months		
40	**Longnose skate**	Unlimited					
41	**Big skate**	Unlimited					
42	**Other Fish[7/] & Cabezon in California**	Unlimited					

TABLE 3 (South)

Table 3 (South) Continued

Other limits and requirements apply -- Read §§660.10 through 660.399 before using this table 1/16/2023

TABLE 3 (South) Continued

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
Rockfish Conservation Area (RCA)[1/]:							
43	40°10' N lat. - 38°57.5' N lat.	40 fm line[1/] - 125 fm line[1/]					
44	38°57.5' N lat. -34°27' N lat.	50 fm line[1/] - 125 fm line[1/]					
45	South of 34°27' N lat.	100 fm line[1/] - 150 fm line[1/] (also applies around islands)					
See §§660.60 and 660.230 for additional gear, trip limit and conservation area requirements and restrictions. See §§660.70-660.74 and §§660.76-660.79 for conservation area descriptions and coordinates (including RCAs, YRCAs, CCAs, Farallon Islands, Cordell Banks, and EFHCAs).							
46	**SALMON TROLL** *(subject to RCAs when retaining all species of groundfish, except for yellowtail rockfish, as described below)*						
47	South of 40°10' N lat.	Salmon trollers may retain and land up to 1 lb of yellowtail rockfish for every 2 lb of Chinook salmon landed, with a cumulative limit of 200 lb/month, both within and outside of the RCA. This limit is within the 4,000 lb per 2 month limit for minor shelf rockfish between 40°10' and 34°27' N lat., and not in addition to that limit. All groundfish species are subject to the open access limits, seasons, size limits and RCA restrictions listed in the table above, unless otherwise stated here.					
48	**RIDGEBACK PRAWN AND, SOUTH OF 38°57.50' N lat., CA HALIBUT AND SEA CUCUMBER NON-GROUNDFISH TRAWL**						
49	**NON-GROUNDFISH TRAWL Rockfish Conservation Area (RCA) for CA Halibut, Sea Cucumber & Ridgeback Prawn:**						
50	*40°10' N lat. - 38°00' N lat.*	*100 fm line[1/] - 200 fm line[1/]*		*100 fm line[1/] - 150 fm line[1/]*			*100 fm line[1/] - 200 fm line[1/]*
51	*38°00' N lat. - 34°27' N lat.*	*100 fm line[1/] - 150 fm line[1/]*					
52	*South of 34°27' N lat.*	*100 fm line[1/] - 150 fm line[1/]*					
53		Groundfish: 300 lb/trip. Species-specific limits described in the table above also apply and are counted toward the 300 lb groundfish per trip limit. The amount of groundfish landed may not exceed the amount of the target species landed, except that the amount of spiny dogfish landed may exceed the amount of target species landed. Spiny dogfish are limited by the 300 lb/trip overall groundfish limit. The daily trip limits for sablefish coastwide and thornyheads south of Pt. Conception and the overall groundfish "per trip" limit may not be multiplied by the number of days of the trip. Vessels participating in the California halibut fishery south of 38°57.50' N lat. are allowed to (1) land up to 100 lb/day of groundfish without the ratio requirement, provided that at least one California halibut is landed and (2) land up to 3,000 lb/month of flatfish, no more than 300 lb of which may be species other than Pacific sanddabs, sand sole, starry flounder, rock sole, curlfin sole, or California scorpionfish (California scorpionfish is also subject to the trip limits and closures in line 29).					
54	**PINK SHRIMP NON-GROUNDFISH TRAWL GEAR** *(not subject to RCAs)*						
55	South	Effective April 1 - October 31: Groundfish: 500 lb/day, multiplied by the number of days of the trip, not to exceed 1,500 lb/trip. The following sublimits also apply and are counted toward the overall 500 lb/ day and 1,500 lb/ trip groundfish limits: lingcod 300 lb/ month (minimum 24 inch size limit); sablefish 2,000 lb/ month; canary rockfish, thornyheads and yelloweye rockfish are PROHIBITED. All other groundfish species taken are managed under the overall 500 lb/day and 1,500 lb/ trip groundfish limits. Landings of all groundfish species count toward the per day, per trip or other species-specific sublimits described here and the species-specific limits described in the table above do not apply. The amount of groundfish landed may not exceed the amount of pink shrimp landed.					

1/ The Rockfish Conservation Area is an area closed to fishing by particular gear types, bounded by lines specifically defined by latitude and longitude coordinates set out at §§ 660.71-660.74. This RCA is not defined by depth contours (with the exception of the 20-fm depth contour boundary south of 42° N lat.), and the boundary lines that define the RCA may close areas that are deeper or shallower than the depth contour. Vessels that are subject to RCA restrictions may not fish in the RCA, or operate in the RCA for any purpose other than transiting.

2/ Minor Shelf and Slope Rockfish complexes are defined at § 660.11. Pacific ocean perch is included in the trip limits for minor slope rockfish. Blackgill rockfish have a species specific trip sub-limit within the minor slope rockfish cumulative limits. Yellowtail rockfish is included in the trip limits for minor shelf rockfish. Bronzespotted rockfish have a species specific trip limit.

3/ "Other flatfish" are defined at § 660.11 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.

4/ "Shallow Nearshore" are defined at § 660.11 under "Groundfish" (7)(i)(B)(*1*).

5/ "Deeper Nearshore" are defined at § 660.11 under "Groundfish" (7)(i)(B)(*2*).

6/ The commercial mimimum size limit for lingcod is 24 inches (61 cm) total length South of 42° N lat.

7/ "Other fish" are defined at § 660.11 and includes kelp greenling off California and leopard shark.

8/ Open access vessels may be allowed to fish inside groundfish conservation areas using hook and line only. See § 660.330 (d) of the regulations for more information.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

■ 6. In § 660.360, revise paragraph (c)(2)(iii)(A) to read as follows:

(c) * * *

(2) * * *

(iii) * * *

(A) *Marine fish.* The bag limit is 10 marine fish per day, which includes rockfish, kelp greenling, cabezon and other groundfish species; except the daily bag limit in the long-leader gear fishery is 15 fish per day. The bag limit of marine fish excludes Pacific halibut, salmonids, tuna, perch species, sturgeon, sanddabs, flatfish, lingcod, striped bass, hybrid bass, offshore pelagic species and baitfish (herring, smelt, anchovies and sardines). The minimum size for cabezon retained in the Oregon recreational fishery is 16 in (41 cm) total length.

* * * * *

[FR Doc. 2023–01571 Filed 1–23–23; 4:15 pm]

BILLING CODE 3510–22–C

Proposed Rules

Federal Register
Vol. 88, No. 17
Thursday, January 26, 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.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2023–0017; Project Identifier AD–2022–01418–T]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all The Boeing Company Model 757 airplanes. This proposed AD was prompted by the potential for cracks to start in hidden areas underneath the scuff plates in the fuselage skin and bear strap of certain doors. This proposed AD would require an inspection or a maintenance records check for repairs in the areas around the fuselage skin door cutout lower corners of certain doors, and applicable on-condition actions. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by March 13, 2023.

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

- *Federal eRulemaking Portal:* Go to *regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2023–0017; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For service information identified in this NPRM, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; website *myboeingfleet.com.*
- You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available at *regulations.gov* by searching for and locating Docket No. FAA–2023–0017.

FOR FURTHER INFORMATION CONTACT: Peter Jarzomb, Aerospace Engineer, Airframe Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712 4137; phone: 562–627–5234; email: *Peter.Jarzomb@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2023–0017; Project Identifier AD–2022–01418–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to *regulations.gov,* including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this NPRM.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Peter Jarzomb, Aerospace Engineer, Airframe Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712 4137; phone: 562–627–5234; email: *Peter.Jarzomb@faa.gov.* Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA has received a report indicating operators of Model 767 airplanes have reported cracks in the fuselage skin and bear strap under the No. 1 and No. 2 passenger entry door scuff plates at the aft lower corners of the fuselage skin door cutout. Although no cracks have been reported at these locations on Model 757 airplanes in service, both Model 757 and 767 airplanes have the potential for cracks to start in hidden areas underneath the scuff plates caused by higher fatigue stresses at the fuselage skin door cutout lower corners. In addition, similar lower door corner skin and bear strap cracks were found on the Model 757 fatigue test article at the No. 2 and No. 4 passenger entry doors, and the forward cargo door. Certain maintenance inspections do not include a step to remove the scuff plates, which also contributes to the inability to find cracks before they become critical. Cracks underneath the scuff plates in the fuselage skin and bear strap, if not addressed, could adversely affect the structural integrity of the airplane.

FAA's Determination

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

Related Service Information Under 1 CFR Part 51

The FAA reviewed Boeing Alert Requirements Bulletin 757–53A0119 RB, dated October 12, 2022. This service information specifies procedures for either a general visual inspection or a maintenance records check for repairs in the areas around the fuselage skin door cutout lower corners of the No. 1, No. 2, and No. 4 passenger entry doors; crew entry door; No. 1, No. 2, and No. 3 cargo doors; and main deck cargo door; and applicable on-condition actions, including repetitive low frequency and high frequency eddy current inspections for cracks in the skin or bear strap in the unrepaired areas, and crack repair. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in **ADDRESSES**.

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in the service information already described except for any differences identified as exceptions in the regulatory text of this proposed AD. For information on the procedures and compliance times, see this service information at r*egulations.gov* by searching for and locating Docket No. FAA–2023–0017.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 482 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
General visual inspection for repairs	1 work-hour × $85 per hour = $85	$0	$85	$40,970

The FAA estimates the following costs to do any necessary on-condition actions that would be required based on the results of the proposed inspection. The agency has no way of determining the number of aircraft that might need these on-condition actions:

ON-CONDITION COSTS

Labor cost	Parts cost	Cost per product
Up to 27 work-hours × $85 per hour = $2,295	(*)	Up to $2,295.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

The Boeing Company: Docket No. FAA–2023–0017; Project Identifier AD–2022–01418–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by March 13, 2023.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all The Boeing Company Model 757–200, –200PF, –200CB, and –300 series airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Unsafe Condition

This AD was prompted by the potential for cracks to start in hidden areas underneath the scuff plates in the fuselage skin and bear strap of certain doors. The FAA is issuing this AD to address cracks caused by higher fatigue stresses at the fuselage skin door cutout lower corners. This unsafe condition, if not addressed, could adversely affect the structural integrity of the airplane.

(f) Compliance

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

(g) Required Actions

Except as specified by paragraph (h) of this AD: At the applicable times specified in the ''Compliance'' paragraph of Boeing Alert Requirements Bulletin 757–53A0119 RB, dated October 12, 2022, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing Alert Requirements Bulletin 757–53A0119 RB, dated October 12, 2022.

Note 1 to paragraph (g): Guidance for accomplishing the actions required by this AD can be found in Boeing Alert Service Bulletin 757–53A0119, dated October 12, 2022, which is referred to in Boeing Alert Requirements Bulletin 757–53A0119 RB, dated October 12, 2022.

(h) Exceptions to Service Information Specifications

(1) Where the Compliance Time column and notes of the tables in the ''Compliance'' paragraph of Boeing Alert Requirements Bulletin 757–53A0119 RB, dated October 12, 2022, use the phrase ''the original issue date of Requirements Bulletin 757–53A0119 RB,'' this AD requires using ''the effective date of this AD.''

(2) Where Boeing Alert Requirements Bulletin 757–53A0119RB, dated October 12, 2022, specifies ''General Visual Inspection (GVI) or a maintenance records check for any existing repair'', if only a Maintenance Records Check is accomplished with no GVI, then any directly follow-on condition actions that specify a compliance time ''Before further flight'' are required prior to the accumulation of 30,000 total flight cycles, or within 3,000 flight cycles after the effective date of this AD, whichever occurs later.

(3) Where Boeing Alert Requirements Bulletin 757–53A0119 RB, dated October 12, 2022, specifies contacting Boeing for repair instructions or for alternative inspections: This AD requires doing the repair, or doing the alternative inspections and applicable on-condition actions, before further flight using a method approved in accordance with the procedures specified in paragraph (i) of this AD.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Los Angeles ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (j) of this AD. Information may be emailed to: *9-ANM-LAACO-AMOC-Requests@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by The Boeing Company Organization Designation Authorization (ODA) that has been authorized by the Manager, Los Angeles ACO Branch, FAA, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(j) Related Information

For more information about this AD, contact Peter Jarzomb, Aerospace Engineer, Airframe Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712 4137; phone: 562–627–5234; email: *Peter.Jarzomb@faa.gov.*

(k) Material Incorporated by Reference

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

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

(i) Boeing Alert Requirements Bulletin 757–53A0119 RB, dated October 12, 2022.

(ii) [Reserved]

(3) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; website *myboeingfleet.com.*

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

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

Issued on January 11, 2023.

Christina Underwood,

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

[FR Doc. 2023–01463 Filed 1–25–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Part 399

[Docket No. DOT–OST–2022–0109]

RIN 2105–AF10

Enhancing Transparency of Airline Ancillary Service Fees

AGENCY: Office of the Secretary (OST), Department of Transportation (DOT or the Department).

ACTION: Denial of Request for Extension of Comment Period.

SUMMARY: The U.S. Department of Transportation (Department or DOT) declines to extend the comment period beyond January 23, 2023 for its proposed rule on Enhancing Transparency of Airline Ancillary Service Fees.

DATES: Comments on the rulemaking should be filed by January 23, 2023. Late-filed comments will be considered to the extent practicable. Petitions for a hearing pursuant to 14 CFR 399.75(b)(1) must also be filed by January 23, 2023.

ADDRESSES: You may file comments identified by the docket number DOT–OST–2022–0109 by any of the following methods:

- *Federal eRulemaking Portal:* go to *https://www.regulations.gov* and follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Ave. SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Ave. SE, Washington, DC, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays. Commenters using this method of delivery should contact Docket Services at 202–366–9826 or 202–366–9317 before delivery to ensure staff is available to receive the delivery.
- *Fax:* (202) 493–2251.

Instructions: You must include the agency name and docket number DOT–OST–2022–0109 or the Regulatory Identification Number (RIN 2105–AF10) for the rulemaking at the beginning of your comment. All comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided.

Privacy Act: Anyone is able to search the electronic form of all comments received in any of our dockets by the name of the individual submitting the comment (or signing the comment, if

submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit *https://www.transportation.gov/privacy.*

Docket: For access to the docket to read background documents and comments received, go to *https://www.regulations.gov* or to the street address listed above. Follow the online instructions for accessing the docket.

FOR FURTHER INFORMATION CONTACT: Ryan Patanaphan or Blane Workie, Office of Aviation Consumer Protection, U.S. Department of Transportation, 1200 New Jersey Ave. SE, Washington, DC 20590, 202–366–9342 (phone), *ryan.patanaphan@dot.gov* or *blane.workie@dot.gov* (email).

SUPPLEMENTARY INFORMATION: On September 26, 2022, the Department of Transportation (DOT or Department) publicly announced and posted to its website a notice of proposed rulemaking (NPRM) that proposed several disclosure requirements to enhance the transparency of ancillary service fees that consumers pay for when they purchase airline tickets. (See 87 FR 63718; October 20, 2022). In the NPRM, the Department proposed to require U.S. air carriers, foreign air carriers, and ticket agents to clearly disclose passenger-specific or itinerary-specific baggage fees, change fees, and cancellation fees to consumers whenever fare and schedule information is provided to consumers for flights to, within, and from the United States. The Department also proposed requiring similar disclosures for fees for a child 13 or under to be seated adjacent to an accompanying adult, as well as the transactability of such seating fees. The proposed rule would require carriers to provide useable, current, and accurate information regarding fees to ticket agents that sell or display the carrier's fare and schedule information.

The NPRM initially provided for a comment period of 60 days after publication of the NPRM in the **Federal Register**, *i.e.,* December 19, 2022. During this time, the Aviation Consumer Protection Advisory Committee (ACPAC) met on December 8, 2022 and heard from Department staff and various stakeholders on the proposed rule. The ACPAC meeting was open to the public. The Department received requests for an extension of the comment period from several commenters.[1] In response to those requests, and to provide additional time for stakeholders to conduct a thorough review of the NPRM's potential impacts, the Department extended the comment period by 35 days to January 23, 2023. (*See* 87 FR 77765 (Dec. 20, 2022). During the extended comment period, the ACPAC met again on January 12, 2023 to deliberate and vote on recommendations in connection with the NPRM's proposals. The ACPAC meeting was again open to the public.

On January 18, 2023, the Travel Technology Association (Travel Tech) requested an extension to file comments on the NPRM, writing that commenters would not have a sufficient opportunity to review and respond to the ACPAC's recommendations that resulted from its January 12 meeting.[2] Travel Tech asserts that it and others were not able to view the meeting when it occurred, and that, at the time the organization requested an extension, the meeting materials had not yet been posted to the public docket. Travel Tech requested a two-week extension to February 6, 2023, to file comments.

While materials from the ACPAC's January 12 meeting, including a video recording of the full meeting, have been posted publicly and can be viewed on the Department's website or on regulations.gov (Docket DOT–OST–2018–0190), the meeting was publicly viewable on the date it was held. Stakeholders were provided sufficient notice of the meeting in advance, and the **Federal Register** notice announcing the meeting noted that the ACPAC intended to deliberate and decide on recommendations, if any, regarding ancillary fee transparency.[3] Indeed, Travel Tech was aware that the ACPAC would meet on January 12 to deliberate and decide on recommendations, if any, regarding this rulemaking. Moreover, the Department believes members of the public have had sufficient time, nearly 4 months, to consider the proposed rule and to file comments. In light of the foregoing, the Department finds insufficient basis to extend further the comment period for the Enhancing Transparency of Airline Ancillary Service Fees NPRM. As such, the Department denies Travel Tech's request for an extension to file comments in this rulemaking. The Department's denial notwithstanding, commenters are reminded that late-filed comments will be considered to the extent practicable.

Signed in Washington, DC, on or around this 20th day of January 2023, under authority delegated at 49 U.S.C. 1.27n.

John E. Putnam,

General Counsel.

[FR Doc. 2023–01517 Filed 1–25–23; 8:45 am]

BILLING CODE P

[1] Commenters requesting additional time for comment were Airlines for America, the International Air Transportation Association, the Travel Technology Association, the American Society of Travel Advisors, and the Global Business Travel Association.

[2] *https://www.regulations.gov/comment/DOT-OST-2022-0109-0068.*

[3] A meeting notice was published in late December 2022 both on the Department's website and at regulations.gov. See *https://www.transportation.gov/airconsumer/latest-news* and *https://www.regulations.gov/document/DOT-OST-2018-0190-0087.*

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 214, 1000, and 1003

[Docket No. FR–6322–P–01]

RIN 2502–AJ64

Certification of Tribal Housing Counselors

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (HUD); Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Proposed rule.

SUMMARY: HUD's Housing Counseling Program provides, through HUD-approved counseling agencies and State housing finance agencies, counseling to individuals seeking information about financing, maintaining, renting, or owning a home. The Dodd-Frank Wall Street Reform and Consumer Protection Act amended the Housing and Urban Development Act of 1968 to improve the effectiveness of the housing counseling program by, among other things, requiring that entities and individual counselors be certified by HUD as competent to provide such counseling services. In 2016, HUD implemented these requirements for most HUD programs but agreed to conduct consultation with Tribes before implementing the new housing counselor certification requirement for Tribes. After consulting with Tribes, HUD proposes a housing counselor certification option for employees of Tribes, Tribally Designated Housing Entities (TDHE), and other Tribal entities conducting housing counseling required or provided in connection with the Indian Housing Block Grant (IHBG) and the Indian Community Development Block Grant (ICDBG) programs. The proposed rule provides an alternative regulatory standard for compliance with the Dodd-Frank Act's counselor certification requirement that recognizes Tribal sovereignty and self-determination, and accounts for the

unique status of Tribal land and housing programs in Indian Country.

DATES: *Comment due date:* March 27, 2023.

ADDRESSES: Interested persons are invited to submit comments regarding this proposed rule to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW, Room 10276, Washington, DC 20410–0500. Communications must refer to the above docket number and title. There are two methods for submitting public comments. All submissions must refer to the above docket number and title.

1. *Submission of Comments by Mail.* Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW, Room 10276, Washington, DC 20410–0500.

2. *Electronic Submission of Comments.* Interested persons may submit comments electronically through the Federal eRulemaking Portal at *www.regulations.gov.* HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the *www.regulations.gov* website can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

Note: To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of this proposed rule.

No Facsimile Comments. Facsimile (FAX) comments are not acceptable. Public

3. *Inspection of Public Comments.* All properly submitted comments and communications submitted to HUD will be available for public inspection and copying between 8 a.m. and 5 p.m., weekdays, at the above address. Due to security measures at the HUD Headquarters building, an appointment to review the public comments must be scheduled in advance by calling the Regulations Division at 202–708–3055 (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 all comments submitted are available for inspection and downloading at *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: David Valdez, Office of Housing Counseling, Office of Housing, Department of Housing and Urban Development, 1331 Lamar St. Suite 550, Houston, TX 77002; telephone number 713–718–3178 (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.*

SUPPLEMENTARY INFORMATION:

I. Background

In 2010, the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. 111–203, 124 Stat. 1376, approved July 21, 2010) amended section 106 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x), hereinafter referred to as section 106, established the Office of Housing Counseling (OHC) and directed HUD to issue regulations necessary to carry out the testing and certification of housing counselors in HUD programs. The section 106 amendments require that individuals providing housing counseling required under or provided in connection with HUD programs be certified by taking and passing an examination administered by HUD's Office of Housing Counseling (HUD certified housing counselors) (12 U.S.C. 1701x(e)).

A. HUD's Current Certification Requirement

On December 14, 2016, HUD published a final rule implementing the section 106 certification requirements, including the requirement that, as explained in the rule preamble, '''housing counseling' . . . that is 'required by or in connection with' HUD programs, may only be provided by HUD-certified housing counselors working for HUD-approved [housing counseling agencies] that are approved to provide such housing counseling by HUD's Office of Housing Counseling.'' *See* 81 FR 90632. However, the certification final rule stated that the application of section 106 to HUD's Native American Housing Programs would undergo consultation prior to implementation, pursuant to HUD's Government-to-Government Tribal Consultation Policy. As a result, the counselor certification requirement currently applies to all HUD programs except the IHBG and ICDBG programs.

HUD-approved housing counseling agencies must be (1) nonprofit organizations as described under section 501(c) of the Internal Revenue Code of 1986 (IRC) that are exempt from taxation under section 501(a) of the IRC; and (2) approved by HUD, in accordance with 24 CFR part 214 and section 106(e) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(e)), to provide housing counseling services to clients directly, or through their affiliates or branches. To become a certified housing counselor, one must be employed by a participating agency, including a HUD-approved housing counseling agency or a unit of State or local government, and pass a standardized, written housing counseling certification examination to demonstrate competency in the following areas: (1) Financial management; (2) property maintenance; (3) responsibilities of homeownership and tenancy; (4) fair housing laws and requirements; (5) housing affordability; and (6) avoidance of, and response to, rental or mortgage delinquency and avoidance of eviction or mortgage default. 24 CFR 214.103(n).

Today, only a small number of Tribal entities participate in HUD's housing counseling program. These Tribal entities have been recognized as unit of local, county, or state government or have formed a tax-exempt non-profit organization and applied to be a HUD-approved housing counseling agency and employ housing counselors directly to provide the counseling required under HUD programs. Most Tribes, TDHEs, and Tribal entities, however, remain ineligible to become HUD-approved housing counseling agencies. As such, Tribes are generally not eligible to receive HUD housing counseling grants.

B. Tribal Consultation

In 2021, HUD hosted two virtual Tribal consultations and six listening sessions to obtain feedback on the implementation of the counselor certification requirements as it applies to the IHBG and ICDGB programs. During HUD consultation sessions, Tribes raised concerns regarding a perceived lack of consideration for Tribal sovereignty and expressed concerns with applying the HUD housing counselor certification requirements to Tribes. Tribes also

described the unique housing services needed in their communities and their need to self-determine their housing priorities based on local needs.

Another area of concern raised by the Tribes was the irrelevancy of some questions and lack of important content in the current counselor certification exam. For example, counseling on Tribal land requires knowledge of unique property and administrative requirements that apply to trust land and other restricted Tribal lands held in trust by the Department of the Interior. Similarly, civil rights laws pursuant to statutes like the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 *et seq.*) (NAHASDA), which authorizes the IHBG program and the Housing and Community Development Act of 1974 (42 U.S.C. 5301 *et seq.*) (HCDA), which authorizes the ICDBG program, do not apply to Tribes in the manner in which they do for other HUD program participants, and current test requirements do not reflect the unique way that civil rights requirements apply to Tribes and other Tribal grantees under HUD programs.

To account for these issues, Tribes suggested HUD allow them to use another organization's Native American counseling training and exam certification (*e.g.,* Pathways, NeighborWorks, etc.) or, in the alternative, for HUD to create a tailored Tribal counselor certification exam. Tribes also raised concerns with having to meet the requirements of the housing counseling program. Importantly, Tribes anticipated difficulty meeting threshold eligibility criteria such as being a tax-exempt nonprofit organization as described in IRC 501(c), and other requirements such as minimum number of clients served, maintaining facilities, work plan and geographic scope descriptions, professional experience, and recordkeeping and reporting. Tribes cited the unique nature of conducting Tribal counseling with limited financial and human capital resources that often lack adequate communication and physical infrastructure and the lack of availability of housing counselors in remote areas. To address these concerns, HUD was asked to exempt Tribes, TDHEs, and Tribal entities from compulsory participation in the existing housing counseling program unless the entities also provide housing counseling under, or in connection with, other HUD programs (programs other than IHBG and ICDBG).

II. This Proposed Rule

As required by the Dodd-Frank Act and after consultation with Tribes, HUD proposes to implement the certification requirements for Tribes, TDHEs, and other Tribal entities conducting housing counseling required or provided in connection with the IHBG and ICDBG programs. Housing Counseling is independent, expert advice customized to the need of the consumer to address the consumer's housing barriers and to help achieve their housing goals and must include the following processes: intake; financial and housing affordability analysis; an action plan, except for reverse mortgage counseling; and a reasonable effort to have follow-up communication with the client when possible. HUD believes this proposed rule implements counselor certification for IHBG and ICDBG, two Native American programs, in a way that considers the substantial Tribal feedback provided by Tribes during consultation while also still complying with the requirement in the Dodd-Frank Act that counseling conducted under the IHBG and ICDBG programs be carried out by HUD-certified counselors.

A. Tribal Housing Counseling Certification

This proposed rule would amend 24 CFR part 214 by adding a new subpart F to establish certification requirements that apply only for the IHBG and ICDBG programs. Specifically, for counseling ''required by or in connection with'' the IHBG and ICDBG programs, an individual may become a ''HUD-certified housing counselor'' by working for a participating agency and meeting all requirements of part 214, including passing a housing counseling certification examination under § 214.103(n), or, by working for an Indian tribe, TDHE, or other Tribal entity, and passing a housing counseling certification examination under paragraph (c) of the new § 214.6 (subpart F). The housing counseling certification examination under § 214.6(c) will be the housing counseling certification examination under § 214.103(n) with adjustments to certain exam components for tribes in a manner that comports with section 106(e)(2). Under § 214.6(d), if an individual working for an Indian tribe, TDHE, or other Tribal entity provides housing counseling for other HUD programs, however, that individual would still need to comply with the existing housing counseling certification requirement of 24 CFR 214.103(n) (*e.g.,* pass the examination and work for a HUD-approved housing counseling agency).

With respect to any housing counselor that is providing housing counseling required by or in connection with the IHBG and ICDBG programs and qualifies to do so based on the criterion in proposed 24 CFR 214.600(b)(1), HUD strongly recommends additional training. Such training should help the counselor become knowledgeable of Federal Indian law, the unique status of trust land, the role of the Bureau of Indian Affairs in mortgage and realty-related transactions and matters, the role played by Indian tribes to grant leases on trust land, and more.

Section 106 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x) in relevant part requires that the housing counselor demonstrate competence through a written examination showing competency in ''fair housing laws and requirements.'' 12 U.S.C. 1701x(e)(2)(D). Section 201(b)(6) of NAHASDA states that Title VI of the Civil Rights Act of 1964, and the Fair Housing Act ''shall not apply to actions by federally recognized tribes and the tribally designated housing entities of those tribes under this Act.'' The regulations at 24 CFR 1000.12 and 1003.601 state which nondiscrimination requirements apply to the IHBG and ICDBG programs, respectively. The housing counseling examination required under the new subpart F will account for this distinction of fair housing laws pertaining to Tribes. The examination will also be appropriately tailored to reflect the unique status of trust land.

HUD recognizes that costs will be incurred as a result of the written examination requirement. In the past, HUD has been able to present the examination in the most cost-efficient way feasible and offered both on-line and in-person examinations at a low cost. In addition, HUD has offered free study materials for individuals to use in preparation for the examination. HUD will seek to modify these materials to account for any tailored exam components that it develops to implement this rule.

B. New Definitions in § 214.3 and a New § 214.600

To conform to the change in the new subpart F, this proposed rule would amend the definition of ''HUD certified housing counselor'' at § 214.3. Under the current definition, certification requires passing the HUD Certification exam and working for a participating housing counseling agency. Given the proposal to expand a certified counselor to include one who is certified by HUD as competent to provide housing counseling services pursuant to the new § 214.600, this definition would include that additional process for becoming a certified housing counselor. This

proposed rule would also add a definition of ''tribally designated housing entity'' at § 214.3 to codify the statutory definition at 25 U.S.C. 4103 in HUD's housing counseling regulations.

C. IHBG Housing Counseling Requires HUD Certification

This proposed rule would amend IHBG program regulations by adding § 1000.66 to require that housing counseling, as defined in 24 CFR 5.100, that is funded with or provided in connection with IHBG funds must be carried out in accordance with 24 CFR 5.111. In addition, this paragraph would provide that housing counseling conducted in connection with the IHBG program may only be conducted by individuals who are HUD-certified in accordance with 24 CFR part 214, including the new requirements promulgated by this proposed rule at § 214.3 and the new § 214.600.

D. ICDBG Housing Counseling Requires HUD Certification

This proposed rule would amend ICDBG program regulations by adding § 1003.609 to require that housing counseling, as defined in 24 CFR 5.100, that is funded with or provided in connection with ICDBG funds must be carried out in accordance with 24 CFR 5.111. In addition, this paragraph would provide that housing counseling conducted in connection with the ICDBG program may only be conducted by individuals who are HUD-certified in accordance with 24 CFR part 214, including the new requirements promulgated by this proposed rule at § 214.3 and the new § 214.600.

III. Findings and Certifications

Regulatory Review—Executive Orders 12866 and 13563

Under Executive Order 12866 (Regulatory Planning and Review), a determination must be made whether a regulatory action is significant and, therefore, subject to review by the Office of Management and Budget (OMB) in accordance with the requirements of the order. Executive Order 13563 (Improving Regulations and Regulatory Review) directs executive agencies to analyze regulations that are ''outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them in accordance with what has been learned.'' Executive Order 13563 also directs that, where relevant, feasible, and consistent with regulatory objectives, and to the extent permitted by law, agencies are to identify and consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public.

HUD's Housing Counseling Program provides, through HUD-approved counseling agencies and state housing finance agencies, counseling to individuals seeking information about financing, maintaining, renting, or owning a home. In 2010, the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203 (''Dodd-Frank Act''), amended section 106 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701x, to improve the effectiveness of the housing counseling program by, among other things, requiring that entities and individual counselors be certified by HUD as competent to provide such counseling services. In 2016, HUD published a final rule implementing these requirements for most HUD programs but agreed to conduct consultation with Tribes before applying the new housing counselor certification requirement to HUD's Native American Housing Programs, pursuant to HUD's Government-to-Government Tribal Consultation Policy. As a result, the counselor certification requirement currently applies to all HUD programs except the Indian Housing Block Grant (IHBG) and Indian Community Development Block Grant (ICDBG) programs.

HUD consulted with Tribes in 2021 in accordance with HUD's Government-to-Government Tribal Consultation Policy and the January 26, 2021, Presidential Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships. As a result of this Tribal consultation, HUD is proposing a more streamlined housing counselor certification option for employees of Tribes, Tribally Designated Housing Entities (TDHE), and other Tribal entities conducting housing counseling required or provided in connection with the IHBG and ICDBG programs. The proposed rule would amend HUD's existing Housing Counseling Program regulations at 24 CFR part 214 to allow the relatively small number of 435 IHBG and ICDBG grantees in total to either use an existing HUD-approved housing counseling agency or to have an employee complete the housing counseling certification examination that is currently required of all counselors at HUD-approved housing counseling agencies. The proposed rule would similarly amend the IHBG and ICDBG program regulations at §§ 1000.66 and 1003.609 to require that housing counseling that is funded with or provided in connection with IHBG or ICDBG funds be carried out in accordance with existing § 5.111, and that housing counseling for these programs may only be conducted by individuals certified in accordance with 24 CFR part 214.

This proposed rule brings HUD's IHBG and ICDBG Programs into compliance with the section 106 statutory requirements, which were added by the Dodd-Frank Act and have applied to other HUD programs since 2016. This proposed rule would provide a streamlined compliance option consistent with the statutory requirement and responsive to tribal consultation. This rule was not subject to OMB review. This rule is not a ''significant regulatory action'' as defined in section 3(f) of Executive Order 12866, and is not an economically significant regulatory action.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This proposed rule would revise the regulations governing HUD's Housing Counseling Program to reflect changes to the program made by the Dodd-Frank Act, primarily the requirement that housing counseling required under or provided in connection with all HUD programs, including the IHBG and ICDBG programs, be carried out by certified housing counselors.

As discussed in this preamble, to date, HUD's Housing Counseling Program, under 24 CFR part 214, has not approved certification criteria for Tribes, TDHEs, and Tribal entities conducting housing counseling exclusively funded under or in connection with the IHBG and ICDBG programs. The key change made to the Housing Counseling Program by this proposed rule is the requirement to certify counselors providing counseling funded under or in connection with these two programs.

HUD has determined that the requirement for individual counselors to be certified, as proposed to be implemented by this proposed rule, will not have a significant economic impact on small entities. The rule provides a three-year transition period after the effective date of the final rule for individual counselors to be certified. This three-year period provides ample notice of the need to be skilled in the required areas. Notwithstanding HUD's determination that this proposed rule will not have a significant economic

impact on a substantial number of small entities, HUD specifically invites comments regarding less burdensome alternatives to this proposed rule, that will meet HUD's objectives as described in this proposed rule.

Executive Order 13132, Federalism

Executive Order 13132 (entitled ''Federalism'') prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on state and local governments and is not required by statute, or the rule preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive order. This proposed rule would not have federalism implications and would not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the Executive order.

Paperwork Reduction Act

The information collection requirements contained in this proposed rule have been submitted to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). In accordance with the Paperwork Reduction Act, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

The burden of the information collections in this proposed rule is estimated as follows:

Section reference	Number of respondents	Number of responses per respondent	Estimated average time for requirement (in hours)	Estimated annual burden (in hours)
24 CFR 214.600	99	2.5	.25	61.875

Reporting and Recordkeeping Burden

In accordance with 5 CFR 1320.8(d)(1), HUD is soliciting comments from members of the public and affected agencies concerning this collection of information to:

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

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information;

(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 collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Interested persons are invited to submit comments regarding the information collection requirements in this rule. Comments must refer to the proposal by name and docket number (FR–6322–P–01) and must be sent to:

HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503, Fax number: (202) 395–6947

and

Colette Pollard, Reports Management Officer, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410

Environmental Impact

This proposed rule does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate real property acquisition, disposition, leasing, rehabilitation, alteration, demolition, or new construction; or establish, revise, or provide for standards for construction or construction materials, manufactured housing, or occupancy. Accordingly, under 24 CFR 50.19(c)(1), this proposed rule is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4; approved March 22, 1995) (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments, and on the private sector. This proposed rule does not impose any Federal mandates on any State, local, or Tribal government, or on the private sector, within the meaning of the UMRA.

List of Subjects

24 CFR Part 214

Administrative practice and procedure, Loan program—housing and community development, Organization and functions (government agencies), Reporting and record-keeping requirements.

24 CFR Part 1000

Aged, Community development block grants, Grant programs—housing and community development, Grant programs—Indians, Indians, Individuals with disabilities, Low and moderate income housing, Public housing, Reporting and recordkeeping.

24 CFR Part 1003

Alaska, Community development block grants, Grant programs—housing and community development, Indians, Reporting and recordkeeping requirements.

Accordingly, for the reasons stated above, HUD proposes to amend 24 CFR parts 214, 1000, and 1003 as follows:

PART 214—HOUSING COUNSELING PROGRAM

■ 1. The authority citation for part 214 continues to read as follows:

Authority: 12 U.S.C. 1701x, 1701x–1; 42 U.S.C. 3535(d).

■ 2. In § 214.3, revise the definition of ''HUD certified housing counselor'' and add the definition of ''Tribally designated housing entity'' in alphabetical order to read as follows:

§ 214.3 Definitions.

* * * * *

HUD certified housing counselor. A housing counselor who has passed the HUD Certification examination:

(1) Works for a participating agency and is certified by HUD as competent to provide housing counseling services pursuant to this part; or

(2) Works for an Indian tribe, tribally designated housing entity (TDHE), or other tribal entity and is certified by HUD as competent to provide housing counseling services pursuant to § 214.600.

* * * * *

Tribally designated housing entity. See definition at 25 U.S.C. 4103.

* * * * *

■ 3. Add subpart F to read as follows:

Subpart F—Certification of Tribal Housing Counselors

§ 214.600 Tribal housing counseling certification.

(a) This subpart applies only to housing counseling required under or provided in connection with the Indian Housing Block Grant (IHBG) program or the Indian Community Development Block Grant (ICDBG) program. Indian tribes, tribally designated housing entities (TDHEs), and other tribal entities funding housing counseling required under or provided in connection with IHBG or ICDBG programs shall not be subject to the requirements of this part, except as otherwise provided in this section.

(b) Housing counseling required under or provided in connection with IHBG or ICDBG programs must be provided by a HUD-certified housing counselor. A HUD-certified housing counselor must be certified either:

(1) By working for a participating agency and complying with all the requirements of this part to include passing a housing counseling certification examination under § 214.103(n); or

(2) By working for an Indian Tribe, TDHE, or other tribal entity and passing a housing counseling certification examination under paragraph (c) of this section.

(c) HUD will certify an individual housing counselor to provide housing counseling required under or provided in connection with IHBG or ICDBG programs upon verification that the person:

(1) Passes a standardized written examination to demonstrate competency in each of the following areas:

(i) Financial management;

(ii) Property maintenance;

(iii) Responsibilities of homeownership and tenancy;

(iv) Fair housing laws and requirements;

(v) Housing affordability; and

(vi) Avoidance of, and response to, rental or mortgage delinquency and avoidance of eviction or mortgage default; and

(2) Works for an Indian tribe, TDHE, or other tribal entity.

(d) To provide housing counseling required under or provided in connection with HUD programs other than the IHBG and ICDBG programs, an individual working for an Indian tribe, TDHE, or other tribal entity must meet the housing counseling certification requirement under § 214.103(n) (*e.g.,* pass the examination and work for a HUD-approved housing counseling agency).

PART 1000—NATIVE AMERICAN HOUSING ACTIVITIES

■ 4. The authority citation for part 1000 continues to read as follows:

Authority: 25 U.S.C. 4101 *et seq.;* 42 U.S.C. 3535(d).

■ 5. Add § 1000.66 to read as follows:

§ 1000.66 Housing counseling.

Housing counseling, as defined in 24 CFR 5.100, that is required under or provided in connection with IHBG funds must be carried out in accordance with 24 CFR 5.111. Housing counseling conducted in connection with the IHBG program may only be conducted by individuals who are HUD-certified in accordance with 24 CFR part 214.

PART 1003—COMMUNITY DEVELOPMENT BLOCK GRANTS FOR INDIAN TRIBES AND ALASKA NATIVE VILLAGES

■ 6. The authority citation for part 1003 continues to read as follows:

Authority: 42 U.S.C. 3535(d) and 5301 *et seq.*

■ 7. Add § 1003.609 to read as follows:

§ 1003.609 Housing counseling.

Housing counseling, as defined in 24 CFR 5.100, that is funded with or provided in connection with ICDBG funds must be carried out in accordance with 24 CFR 5.111. Housing counseling conducted in connection with the ICDBG program may only be conducted by individuals who are HUD-certified in accordance with 24 CFR part 214.

Julia Gordon,

Office of the Assistant Secretary for Housing—Federal Housing Administration Commissioner.

Dominique Blom,

General Deputy Assistant Secretary, Office of Public and Indian Housing.

[FR Doc. 2023–01345 Filed 1–25–23; 8:45 am]

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LIBRARY OF CONGRESS

Copyright Royalty Board

37 CFR Part 381

[Docket No. 21–CRB–0002–PBR (2023–2027)]

Determination of Rates and Terms for Public Broadcasting (PB IV)

AGENCY: Copyright Royalty Board (CRB), Library of Congress.

ACTION: Proposed rule.

SUMMARY: The Copyright Royalty Judges solicit comments on proposed rates and terms for use of certain works in connection with noncommercial broadcasting for the period from January 1, 2023, through December 31, 2027.

DATES: Comments and objections, if any, are due on or before February 27, 2023.

ADDRESSES: You may submit comments and objections, identified by docket number 21–CRB–0002–PBR (2023–2027), online through eCRB at *https://app.crb.gov.*

Instructions: To send your comment through eCRB, if you don't have a user account, you will first need to register for an account and wait for your registration to be approved. Approval of user accounts is only available during business hours. Once you have an approved account, you can only sign in and file your comment after setting up multi-factor authentication, which can be done at any time of day. All comments must include the Copyright Royalty Board name and the docket number for this proposed rule. All properly filed comments will appear without change in eCRB at *https://app.crb.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to eCRB, the Copyright Royalty Board's electronic filing and case management system, at *https://app.crb.gov/,* and search for docket number 21–CRB–0002–PBR (2023–2027).

FOR FURTHER INFORMATION CONTACT: Anita Brown, CRB Program Specialist, (202) 707–7658, *crb@loc.gov.*

SUPPLEMENTARY INFORMATION:

Background

Section 118 of the Copyright Act, title 17 of the United States Code, establishes a statutory license for the use of certain copyrighted works in connection with noncommercial television and radio broadcasting. Chapter 8 of the Copyright Act requires the Copyright Royalty Judges (Judges) to conduct proceedings every five years to determine the rates and terms for the section 118 license. 17 U.S.C. 801(b)(1), 804(b)(6). In accordance with section 804(b)(6), the Judges commenced the proceeding to set rates and terms for the period 2023–2027 on January 5, 2021. (86 FR 325).

In the **Federal Register** notice, the Judges requested that interested parties submit petitions to participate. 86 FR 325 (January 5, 2021). Petitions to Participate (PTPs) were received from: The American Society of Authors, Composers and Publishers (ASCAP); SESAC Performing Rights, LLC (SESAC); Broadcast Music, Inc. (BMI); Educational Media Foundation (EMF); Corporation for Public Broadcasting (CPB), National Public Radio (NPR), and the Public Broadcasting Service (PBS), jointly (the Public Broadcasting Entities (PBE)); National Religious Broadcasters Noncommercial Music License Committee NRBNMLC); the Church Music Publishers' Association (CMPA); The Harry Fox Agency (HFA); Global Music Rights, LLC (GMR); and David Powell.

The Judges set the timetable for the three-month negotiation period, *see* 17 U.S.C. 803(b)(3), and directed the participants to submit written direct statements no later than September 10, 2021. Notice of Participants, Commencement of Voluntary Negotiation Period, and Case Scheduling Order (Feb. 9, 2021). The Judges amended the case schedule four times to accommodate ongoing negotiations. *See* Order Granting Joint Motion to Postpone Submission of Written Direct Statements (Dec. 1, 2021). In July 2021, September 2021, November 2021, and December 2022 participants filed notices of settlement and proposed rates and terms for adoption [1]. No participant filed a written direct statement.

There are two ways copyright owners and public broadcasting entities [2] may negotiate rates and terms under the section 118 statutory license. First, copyright owners may negotiate rates and terms with specific public broadcasting entities for the use of all of the copyright owners' works covered by the license. Section 118(b)(2) provides that such license agreements ''shall be given effect in lieu of any determination by the * * * Copyright Royalty Judges,'' provided that copies of the agreement are submitted to the Judges ''within 30 days of execution.'' 17 U.S.C. 118(b)(2). The Judges received five agreements in this category for which no further action is required.[3]

Second, copyright owners and public broadcasting entities may negotiate rates and terms for categories of copyrighted works and uses that would be binding on all owners and entities using the same license and submit them to the Judges for approval. Section 801(b)(7)(A) of the Copyright Act authorizes the Judges to adopt rates and terms negotiated by ''some or all of the participants in a proceeding at any time during the proceeding'' provided they are submitted to the Judges for approval. This section provides that the Judges shall provide notice and an opportunity to comment on the agreement to (1) those that would be bound by the terms, rates, or other determination set by the agreement and (2) participants in the proceeding that would be bound by the terms, rates, or other determination set by the agreement. In addition, the Judges shall provide participants in the proceeding the opportunity to object to its adoption as a basis for statutory rates and terms. See section 801(b)(7)(A). The Judges may decline to adopt the agreement as a basis for statutory terms and rates for participants not party to the agreement if any participant objects and the Judges conclude that the agreement does not provide a reasonable basis for setting statutory terms or rates. *Id.*

The Judges received negotiated rates and terms from ASCAP (Jul. 2, 2021), BMI (May 17, 2021), GMR (Sept. 9, 2021) and SESAC (Sept. 3, 2021), and jointly from all four (Dec. 7, 2022) regarding rates for compositions in their repertories by certain public broadcasters [4]; and from NRBNMLC jointly with ASCAP (Sept. 9, 2021), BMI (Sept. 10, 2021), GMR (Sept. 9, 2021, and Dec, 7, 2022)), SESAC (Sept. 10, 2021) and HFA (June 21, 2021) regarding rates for compositions in their repertories by certain other public broadcasters.[5]

ASCAP, BMI, GMR, and SESAC Joint Proposal

The joint proposal of ASCAP,[6] BMI, GMR, and SESAC proposes to modify the royalty rates set forth in § 381.5. The rates proposed regarding ASCAP reflect a modification of the fees in different rate tiers. Joint Proposal at 4, App. A. The SESAC submission retains a flat rate, which it proposes adjusting, starting in 2023, by the change in the Consumer Price Index or one-and-a-half percent, whichever is greater. SESAC Proposal App. A.

The GMR proposals add a section for compositions in its repertory that provide for an initial rate for 2023; provide for adjusting that rate, starting in 2024, by the change in the Consumer Price Index or one-and-a-half percent, whichever is greater; add a term providing rate options for certain entities broadcasting primarily in a religious format; and add references to GMR in paragraphs related to the rates. *See* Joint PROs Proposal. App. A at 9. [7]

NRBNMLC Joint Proposals

The joint proposals entered into by NRBNMLC and each of ASCAP, BMI, GMR, and SESAC [8] propose adjusting the rates and structure in (ASCAP, BMI, SESAC), and adding some rates to (GMR), the current provisions set forth in § 381.6, and replacing ''January 1, 2018'' with ''January 1, 2023'' and ''December 31, 2022'' with ''December 31, 2027'' in § 381.1. [9] ASCAP and NRBNMLC Joint proposal at 3; BMI and NRBNMLC Joint proposal at 5; SESAC and NRBNMLC Joint proposal at 3; GMR and NRBNMLC Joint proposal at 4.

Three of the four joint proposals (those from NRBNMLC and ASCAP, SESAC, and GMR) propose a revision to 381.6(4) to add the words ''in the aggregate''. All participants proposing the revision later agree that the revision is not necessary, NRBNMLC being the only one bound by that provision. NRBNMLC supports the language change, but would not object to maintaining the current language if the

[1] The Judges received no notice of settlement or proposed rates and terms from participant David Powell.

[2] A ''public broadcasting entity'' is defined as a ''noncommercial educational broadcast station as defined in section 397 of title 47 and any nonprofit institution or organization engaged in the activities described in paragraph (2) of subsection (c)'' of section 118. 17 U.S.C. 118(f).

[3] The Judges received agreements with PBE from BMI, HFA, SESAC, ASCAP, and GMR on October 29, 2021; November 2, 2021; November 2, 2021; January 28, 2022, and December 29, 2022, respectively.

[4] The joint proposal aggregates the separate proposals and is to be considered in place of them. *See* Joint Proposal at 1 n.1.

[5] The Judges already published for comment the proposed rates and terms the Judges received early in 2021 from three participants. *See* 86 FR 34674 (Jul. 1, 2021) (BMI proposal); 86 FR 34676 (Jul. 1, 2021) (HFA/NRBNMLC proposal). The comment period has ended, and the Judges received no comments. To minimize confusion that may occur from issuing more than one final rule, those proposed rates are repeated in the regulatory language of this proposed rule and the Judges do not seek comment on them.

[6] The joint proposal is supported by the National Association of College and University Business Officers (NACUBO) and implicitly by the American Council on Education (ACE). Joint Proposal at 3 n.2.

[7] The Joint PROs Proposal was filed subsequent to GMR's motion of December 2, 2022, requesting amendments to §§ 381.1, 381.5, and 381.10, and thus the motion is DENIED as moot.

[8] All proposals mention that EMF joins in the proposals. The ASCAP and NRBNMLC joint proposal mention that Church Music Publishers Association., Inc., supports the proposal.

[9] Proposed changes to § 381.7(b)(4) pursuant to a joint proposal from HFA and NRBNMLC were published on June 30, 2021, and are published again here, not for comment but rather in order to include all proposed changes to § 381 in one document.

published document of the rates makes clear ''that the $1 fee is a one-time aggregate fee that merely ensures universal rate coverage, not a fee assessed multiple times.'' *See* Response of the NRBNMLC to the CRJ's Order 6 . . . at 4–5 (Dec, 7, 2022). The Judges have thus hereby stated the clarification from the NRBNMLC in this supplementary information.

PBE Joint Proposals

The Judges received a joint proposal from PBE and HFA to modify the fees in § 381.7 for uses that would be binding on all owners and entities using the same license.

The Judges received a joint proposal from CPB and PBS to continue the existing rates in § 381.8 for the use of and making reproductions of published pictorial, graphic, and sculptural works, and to make changes to the terms regarding when those rates apply and related reporting requirements.[10]

Proposal re Format of Cue Sheets and Summaries

The Judges propose technical revisions to §§ 381.7(e) and 381.8(e)(1) to require online filing of cue sheets or summaries in lieu of submissions of electronic copies on compact disk or floppy diskette. This change would conform these sections with § 303.5(a) that generally requires online filing of documents in eCRB.

As noted above, the members of the public may comment on, and participants in this rate proceeding may comment on and object to, any or all of the proposed regulations and the proposed technical revision contained in this document.

List of Subjects in 37 CFR Part 381

Copyright, Music, Radio, Television, Rates.

Proposed Regulations

For the reasons set forth in the preamble, the Copyright Royalty Judges propose to amend part 381 to chapter III of title 37 of the Code of Federal Regulations as set forth below:

PART 381—USE OF CERTAIN COPYRIGHTED WORKS IN CONNECTION WITH NONCOMMERCIAL EDUCATIONAL BROADCASTING

■ 1. The authority citation for part 381 continues to read as follows:

Authority: 17 U.S.C. 118, 801(b)(1) and 803.

§ 381.1 [Amended]

■ 2. In § 381.1, remove they year ''2018'' and add in its place the year ''2023'', and remove the year ''2022'' and add in its place the year ''2027''.

■ 3. In § 381.4, revise paragraphs (a) and (c) a to read as follows:

§ 381.4 Performance of musical compositions by PBS, NPR and other public broadcasting entities engaged in the activities set forth in 17 U.S.C. 118(c).

(a) *Determination of royalty rate.* The following rates and terms shall apply to the performance by the Public Broadcasting Service (PBS), National Public Radio (NPR) and other public broadcasting entities engaged in activities set forth in 17 U.S.C. 118(c) of copyrighted published nondramatic musical compositions, except for public broadcasting entities covered by §§ 381.5 and 381.6, and except for compositions which are the subject of voluntary license agreements: The royalty shall be $1.

* * * * *

(c) *Records of use.* PBS and NPR shall, upon the request of a copyright owner of a published musical work who believes a musical composition of such owner has been performed under the terms of this schedule, permit such copyright owner a reasonable opportunity to examine their standard cue sheets listing the nondramatic performances of musical compositions on PBS and NPR programs. Any local PBS and NPR station that shall be required by the provisions of any voluntary license agreement with American Society of Authors, Composers and Publishers (ASCAP), Broadcast Music, Inc. (BMI), Global Music Rights, LLC (GMR) or SESAC Performing Rights, LLC (SESAC) covering the license period January 1, 2023, to December 31, 2027, to provide a music use report shall, upon request of a copyright owner who believes a musical composition of such owner has been performed under the terms of this schedule, permit such copyright owner to examine the report.

■ 4. In § 381.5, revise paragraphs (c) through (e) to read as follows:

§ 381.5 Performance of musical compositions by public broadcasting entities licensed to colleges and universities.

* * * * *

(c) *Royalty rate.* A public broadcasting entity within the scope of this section may perform published nondramatic musical compositions subject to the following schedule of royalty rates:

(1) For all such compositions in the repertory of ASCAP, the royalty rates shall be as follows:

(i) *Music Fees.*

TABLE 1 TO PARAGRAPH (c)(1)(i)

	Number of full-time students	2023	2024	2025	2026	2027
Level 1	< 1,000	$390	$400	$410	$421	$432
Level 2	1,000–4,999	451	463	475	487	500
Level 3	5,000–9,999	619	635	652	669	686
Level 4	10,000–19,999	801	822	843	865	887
Level 5	20,000 +	1,009	1,035	1,062	1,090	1,118

(ii) Level 1 rates as set forth in paragraph (c)(1)(i) of this section, shall also apply to College Radio Stations with an authorized effective radiated power (ERP), as that term is defined in 47 CFR 73.310(a), of 100 Watts or less, as specified on its current (Federal Communications Commission (FCC) license, regardless of the size of the student population.

[10] Corporation for Public Broadcasting (CPB), National Public Radio (NPR), and Public Broadcasting Service (PBS) filed a ''Joint petition'' to participate in this proceeding, as petitioners with similar interests under the designation Public Broadcasting Entities (PBE), pursuant to 37 CFR 351.1(b)(1)(ii). The participants that submitted the joint proposal, CPB and PBS, share similar interests, but the Judges do not presume or find that they share identical interests. Under the present circumstances, the Judges consider the CPB and PBS proposal pursuant to section 801(b)(7)(A).

(2) For all such compositions in the repertory of BMI, the royalty rates shall be as follows:

(i) *Music fees.*

TABLE 2 TO PARAGRAPH (c)(2)(i)

	Number of full-time students	2018	2019	2020	2021	2022
Level 1	<1,000	$390	$400	$410	$421	$432
Level 2	1,000–4,999	451	463	475	487	500
Level 3	5,000–9,999	619	635	652	669	686
Level 4	10,000–19,999	801	822	843	865	887
Level 5	20,000 +	1,009	1,035	1,062	1,090	1,118

(ii) Level 1 rates, as set forth in paragraph (c)(2)(i) of this section, shall also apply to College Radio Stations with an authorized effective radiated power (ERP), as that term is defined in 47 CFR 73.310(a), of 100 Watts or less, as specified on its current FCC license, regardless of the size of the student population.

(3) For all such compositions in the repertory of SESAC, the royalty rates shall be as follows:

(i) 2023: The 2022 rate, subject to an annual cost of living adjustment in accordance with paragraph (c)(3)(vi) of this section.

(ii) 2024: The 2023 rate, subject to an annual cost of living adjustment in accordance with paragraph (c)(3)(vi) of this section.

(iii) 2025: The 2024 rate, subject to an annual cost of living adjustment in accordance with paragraph (c)(3)(vi) of this section.

(iv) 2026: The 2025 rate, subject to an annual cost of living adjustment in accordance with paragraph (c)(3)(vi) of this section.

(v) 2027: The 2026 rate, subject to an annual cost of living adjustment in accordance with paragraph (c)(3)(vi) of this section.

(vi) Such cost of living adjustment to be made in accordance with the greater of:

(A) The change, if any, in the Consumer Price Index (all consumers, all items) published by the U.S. Department of Labor, Bureau of Labor Statistics during the twelve (12) month period from the most recent Index, published before December 1 of the year immediately prior to the applicable year; or

(B) One and one-half percent (1.5%).

(4) For all such compositions in the repertory of GMR, the royalty rates shall be as follows:

(i) 2023: $174.00 per station, subject to an annual cost of living adjustment in accordance with § 381.10.

(ii) 2024: The 2023 rate, subject to an annual cost of living adjustment in accordance with § 381.10.

(iii) 2025: The 2024 rate, subject to an annual cost of living adjustment in accordance with § 381.10.

(iv) 2026: The 2025 rate, subject to an annual cost of living adjustment in accordance with § 381.10.

(v) 2027: The 2026 rate, subject to an annual cost of living adjustment in accordance with § 381.10.

(vi) For stations broadcasting primarily in a religious format (including, without limitation, Contemporary Christian music, praise and worship, Gospel, Southern Gospel, Spanish religious music, inspirational, religious, etc.), at their option for 2023–2027, either the rates set forth in paragraph (c)(4) of this section or the rates set forth in § 381.6(d)(4).

(5) For the performance of all other such compositions: $1.

(d) *Payment of royalty rate.* The public broadcasting entity shall pay the required royalty rate to ASCAP, BMI, SESAC, and GMR not later than January 31 of each year. Each annual payment to ASCAP, BMI, SESAC, and GMR shall be accompanied by a signed declaration stating the number of full-time students enrolled in the educational entity operating the station and/or the effective radiated power (ERP) as specified in its current FCC license. An exact copy of such declaration shall be furnished to each of ASCAP, BMI, SESAC, and GMR.

(e) *Records of use.* A public broadcasting entity subject to this section shall furnish to ASCAP, BMI, SESAC, and GMR upon request, a music-use report during one week of each calendar year. ASCAP, BMI, SESAC, and GMR shall not in any one calendar year request more than 10 stations to furnish such reports.

■ 5. Amend § 381.6 by revising paragraphs (d) through (f) to read as follows:

§ 381.6 Performance of musical compositions by other public broadcasting entities.

* * * * *

(d) *Royalty rate.* A public broadcasting entity within the scope of this section may perform published nondramatic musical compositions subject to the following schedule of royalty rates:

(1) For all such compositions in the repertory of ASCAP, the royalty rates shall be as follows:

(i) Music Fees (Stations with 20% or more programming containing Feature Music):

TABLE 1 TO PARAGRAPH (d)(1)(i)

	Population count	Calendar years				
		2023	2024	2025	2026	2027
Level 1	0–24,999	$574	$585	$597	$609	$621
Level 2	25,000–249,999	754	769	784	800	816
Level 3	250,000–499,999	1,346	1,373	1,400	1,428	1,457
Level 4	500,000–999,999	2,017	2,057	2,098	2,140	2,183
Level 5	1,000,000–1,499,999	2,691	2,745	2,800	2,856	2,913
Level 6	1,500,000–1,999,999	3,363	3,430	3,499	3,569	3,640
Level 7	2,000,000–2,499,999	4.035	4,116	4,198	4,282	4.368
Level 8	2,500,000–2,999,999	4,708	4,802	4,898	4,996	5,096

TABLE 1 TO PARAGRAPH (d)(1)(i)—Continued

	Population count	Calendar years				
		2023	2024	2025	2026	2027
Level 9	3,000,000 and above	6,726	6,861	6,998	7,138	7,280

(ii) Talk Format Station Fees (Stations with <20% Feature Music programming):

TABLE 2 TO PARAGRAPH (d)(1)(ii)

	Population count	Calendar years				
		2023	2024	2025	2026	2027
Level 1	0–24,999	$265	$270	$276	$281	$287
Level 2	25,000–249,000	574	585	597	609	621
Level 3	250,000–499,999	574	585	597	609	621
Level 4	500,000–999,999	574	585	597	609	621
Level 5	1,000,000–1,499,999	942	961	980	1,000	1,020
Level 6	1,500,000–1,999,999	1,177	1,201	1,225	1,249	1,274
Level 7	2,000,000–2,499,999	1,412	1,440	1,469	1,498	1,528
Level 8	2,500,000–2,999,999	1,647	1,680	1,714	1,748	1,783
Level 9	3,000,000 and above	2,354	2,401	2,449	2,498	2,548

(2) For all such compositions in the repertory of BMI, the royalty rates shall be as follows:

(i) Music Fees (Stations with 20% or more programming containing Feature Music):

TABLE 3 TO PARAGRAPH (d)(2)(i)

	Population count	Calendar years				
		2023	2024	2025	2026	2027
Level 1	0–24,999	$574	$585	$597	$609	$621
Level 2	25,000–249,000	754	769	784	800	816
Level 3	250,000–499,999	1,346	1,373	1,400	1,428	1,457
Level 4	500,000–999,999	2,017	2,057	2,098	2,140	2,183
Level 5	1,000,000–1,499,999	2,691	2,745	2,800	2,856	2,913
Level 6	1,500,000–1,999,999	3,363	3,430	3,499	3,569	3,640
Level 7	2,000,000–2,499,999	4,035	4,116	4,198	4,282	4,368
Level 8	2,500,000–2,999,999	4,708	4,802	4,898	4,996	5,096
Level 9	3,000,000 and above	6,726	6,861	6,998	7,138	7,280

(ii) Talk Format Station Fees (Stations with <20% Feature Music programming):

TABLE 4 TO PARAGRAPH (d)(2)(ii)

	Population count	Calendar years				
		2023	2024	2025	2026	2027
Level 1	0–24,999	$265	$270	$276	$281	$287
Level 2	25,000–249,000	574	585	597	609	621
Level 3	250,000–499,999	574	585	597	609	621
Level 4	500,000–999,999	574	585	597	609	621
Level 5	1,000,000–1,499,999	942	961	980	1,000	1,020
Level 6	1,500,000–1,999,999	1,177	1,201	1,225	1,249	1,274
Level 7	2,000,000–2,499,999	1,412	1,440	1,469	1,498	1,528
Level 8	2,500,000–2,999,999	1,647	1,680	1,714	1,748	1,783
Level 9	3,000,000 and above	2,354	2,401	2,449	2,498	2,548

(3) For all such compositions in the repertory of SESAC, the royalty rates shall be as follows:

(i) Music fees for stations with >=20% Feature Music programming:

TABLE 5 TO PARAGRAPH (d)(3)(i)

	Population count	2023	2024	2025	2026	2027
Level 1	0–24,999	$189	$192	$196	$200	$204
Level 2	25,000–249,000	189	192	196	200	204
Level 3	250,000–499,999	315	321	328	334	341
Level 4	500,000–999,999	473	482	492	502	512
Level 5	1,000,000–1,499,999	630	643	656	669	682
Level 6	1,500,000–1,999,999	789	805	821	837	854
Level 7	2,000,000–2,499,999	945	964	983	1,003	1,023
Level 8	2,500,000–2,999,999	1,104	1,126	1,149	1,172	1,195
Level 9	3,000,000 and above	1,577	1,608	1,640	1,673	1,707

(ii) Talk fees for stations with <20% Feature Music programming:

TABLE 6 TO PARAGRAPH (d)(3)(ii)

	Population count	2023	2024	2025	2026	2027
Level 1	0–24,999	$130	$133	$135	$138	$141
Level 2	25,000–249,000	189	192	196	200	204
Level 3	250,000–499,999	189	192	196	200	204
Level 4	500,000–999,999	189	192	196	200	204
Level 5	1,000,000–1,499,999	221	225	229	234	239
Level 6	1,500,000–1,999,999	276	282	287	293	299
Level 7	2,000,000–2,499,999	331	337	344	351	358
Level 8	2,500,000–2,999,999	386	394	402	410	418
Level 9	3,000,000 and above	552	563	574	586	597

(4) For all such compositions in the repertory of GMR, the royalty rates shall be as follows:

(i) For a public broadcasting entity within the scope of this section that is broadcasting one or more radio stations as of January 1, 2023, a single $50 fee for each such station for the entire five-year license term from 2023 through 2027; and

(ii) For a public broadcasting entity within the scope of this section that begins broadcasting a radio station after January 1, 2023 but before December 31, 2027, a pro-rated amount equal to $10 multiplied by the number of full or partial years remaining in the 2023–2027 license term as of the date on which the radio station begins broadcasting (*e.g.,* a public broadcasting entity that begins broadcasting a radio station in 2025 shall pay $30 for that station for the remainder of the term);

(5) For the performance of all other such compositions, from 2023 through 2027, $1.

(e) *Payment of royalty rate*–(1) *ASCAP, BMI, and SESAC.* The public broadcasting entity shall pay the required royalty rate to ASCAP, BMI and SESAC not later than January 31 of each year. Each annual payment shall be accompanied by a signed declaration stating the Population Count of the public broadcasting entity and the source for such Population Count. An exact copy of such declaration shall be furnished to each of ASCAP, BMI and SESAC. Upon prior written notice thereof from ASCAP, BMI or SESAC, a public broadcasting entity shall make its books and records relating to its Population Count available for inspection. In the event that a public broadcasting entity wishes to be deemed a Talk Format Station, then such entity shall provide a signed declaration stating that Feature Music is performed in less than 20% of its annual programming and that it complies with the caps set forth in paragraph (b)(4) of this section. An exact copy of such declaration shall be furnished to each of ASCAP, BMI and SESAC. Upon prior written notice thereof from ASCAP, BMI or SESAC, a public broadcasting entity shall make its program schedule or other documentation supporting its eligibility as a Talk Format Station available for inspection.

(2) *GMR.* For fees due pursuant to paragraph (d)(4)(i) of this section, the public broadcasting entity shall pay the required royalty rate to GMR not later than January 31, 2023. For fees due pursuant to paragraph (d)(4)(ii) of this section, the public broadcasting entity shall pay the required royalty rate to GMR not later than 60 days after the public broadcasting entity begins to broadcast the radio station for which such fee is due. If a fee is paid pursuant to paragraph (d)(4)(i) or (ii) of this section for a radio station and that station changes ownership during the course of the license term but continues to fall within the scope of this section, no additional fee shall be due for that station during the 2023–2027 license term.

(f) *Records of use.* A public broadcasting entity subject to this section shall furnish to ASCAP, BMI, SESAC, and GMR, upon request, a music-use report during one week of each calendar year. ASCAP, BMI, SESAC, and GMR each shall not in any one calendar year request more than 10 stations to furnish such reports.

■ 6. In § 381.7, revise paragraphs (a) through (c), and (e) to read as follows:

§ 381.7 Recording rights, rates, and terms.

(a) *Scope.* This section establishes rates and terms for the recording of nondramatic performances and displays of musical works, other than compositions subject to voluntary license agreements, on and for the radio and television programs of public

broadcasting entities, whether or not in synchronization or timed relationship with the visual or aural content, and for the making, reproduction, and distribution of copies and phonorecords of public broadcasting programs containing such nondramatic performances and displays of musical works solely for the purpose of transmission by public broadcasting entities, including transmission via the internet by PBS and NPR. The rates and terms established in this schedule include the making of the reproductions described in 17 U.S.C. 118(c)(3).

(b) *Royalty rate.* (1)(i) For uses described in paragraph (a) of this section of a musical work in a PBS-distributed program, the royalty fees shall be calculated by multiplying the following per-composition rates by the number of different compositions in that PBS-distributed program:

	2023–2027
(A) Feature	$121.07
(B) Concert feature (per minute)	36.36
(C) Background	61.19
(D) Theme:	
(*1*) Single program or first series program	61.19
(*2*) Other series program	24.84

(ii) For such uses other than in a PBS-distributed television program, the royalty fee shall be calculated by multiplying the following per-composition rates by the number of different compositions in that program:

	2023–2027
(A) Feature	$10.01
(B) Concert feature (per minute)	2.63
(C) Background	4.35
(D) Theme:	
(*1*) Single program or first series program	4.35
(*2*) Other series program	1.73

(iii) In the event the work is first recorded other than in a PBS-distributed program, and such program is subsequently distributed by PBS, an additional royalty payment shall be made equal to the difference between the rate specified in this section for other than a PBS-distributed program and the rate specified in this section for a PBS-distributed program.

(2) For uses licensed herein of a musical work in a NPR program, the royalty fees shall be calculated by multiplying the following per-composition rates by the number of different compositions in any NPR program distributed by NPR. For purposes of this schedule ''National Public Radio'' programs include all programs produced in whole or in part by NPR, or by any NPR station or organization under contract with NPR.

	2023–2027
(i) Feature	$13.11
(ii) Concert feature (per minute)	19.24
(iii) Background	6.56
(iv) Theme:	
(A) Single program or first series program	6.56
(B) Other series program	2.62

(3) For purposes of this schedule, a ''Concert Feature'' shall be deemed to be the nondramatic presentation in a program of all or part of a symphony, concerto, or other serious work originally written for concert performance, or the nondramatic presentation in a program of portions of a serious work originally written for opera performance.

(4) For such uses other than in an NPR-produced radio program:

	2023–2027
(i) Feature	$.83
(ii) Feature (concert) (per half hour)	1.72
(iii) Background	.42

(5) The schedule of fees covers use for a period of three years following the first use. Succeeding use periods will require the following additional payment: Additional one-year period—25 percent of the initial three-year fee; second three-year period—50 percent of the initial three-year fee; each three-year fee thereafter—25 percent of the initial three-year fee; provided that a 100 percent additional payment prior to the expiration of the first three-year period will cover use during all subsequent use periods without limitation. Such succeeding uses which are subsequent to December 31, 2022, shall be subject to the royalty rates established in this schedule.

(6) For each use licensed herein pursuant to paragraphs (b)(1)(i) and (b)(2) of this section for transmission via the internet, the royalty fees shall include a pro-rata share of $2,000 per calendar year, which share shall be determined by calculating the aggregate amount of royalty fees earned during that calendar year and dividing the sum by the amount of royalty fees earned for each use.

(c) *Payment of royalty rates.* The required royalty due under paragraphs (b)(1), (b)(2), and (b)(4) of this section shall be paid to each known copyright owner not later than July 31 of each calendar year for uses during the first six months of that calendar year, and not later than January 31 for uses during the last six months of the preceding calendar year. The required royalty due under paragraph (b)(6) of this section for each calendar year of the statutory license term shall be paid to each known copyright owner not later than March 31 of each following year for PBS- or NPR-distributed uses via the internet during the preceding calendar year.

* * * * *

(e) *Filing of use reports with the Copyright Royalty Judges. Deposit of cue sheets or summaries.* PBS and its stations, NPR, or other television public broadcasting entity shall deposit with the Copyright Royalty Judges via online filing in eCRB one electronic copy of their standard music cue sheets or summaries of same listing the recording pursuant to this schedule of the musical works of copyright owners. Such cue sheets or summaries shall be deposited not later than July 31 of each calendar year for recordings during the first six months of the calendar year and not later than January 31 of each calendar year for recordings during the second six months of the preceding calendar year. PBS and NPR shall maintain at their offices copies of all standard music cue sheets from which such music use reports are prepared. Such music cue sheets shall be furnished to the Copyright Royalty Judges upon their request and also shall be available during regular business hours at the offices of PBS or NPR for examination by a copyright owner who believes a musical composition of such owner has been recorded pursuant to this schedule.

§ 381.8 [Amended]

■ 7. In § 381.8:

■ a. In paragraph (b)(1), add the words ''not otherwise licensed by the copyright owner'' at the end of the introductory text;

■ b. In paragraphs (b)(1)(i) and (ii), remove the year ''2013–2017'' and add in its place the year ''2023–2027'';

■ c. In paragraph (d)(1) add the words '', upon request,'' after ''shall maintain and''; and

■ d. In paragraph (f)(1) remove the year ''2017'' and add in its place the year ''2027''.

■ 8. Revise § 381.10 to read as follows:

§ 381.10 Cost of living adjustment.

(a) On or before December 1, 2023, the Copyright Royalty Judges shall publish in the **Federal Register** a notice of the change in the cost of living as determined by the Consumer Price

Index (all consumers, all items) during the period from the most recent Index published prior to December 1, 2022, to the most recent Index published prior to December 1, 2023. On or before each December 1 thereafter the Copyright Royalty Judges shall publish a notice of the change in the cost of living during the period from the most recent index published prior to the previous notice, to the most recent Index published prior to December 1, of that year.

(b) On the same date of the notices published pursuant to paragraph (a) of this section, the Copyright Royalty Judges shall publish in the **Federal Register** a revised schedule of the rates for § 381.5(c)(3) and (4), the rate to be charged for compositions in the repertory of SESAC and GMR, which shall adjust the royalty amounts established in a dollar amount according to the greater of:

(1) The change in the cost of living determined as provided in paragraph (a) of this section; or

(2) One-and-a-half percent (1.5%).

(3) Such royalty rates shall be fixed at the nearest dollar.

(c) The adjusted schedule for the rates for § 381.5(c)(3) and (4) shall become effective thirty (30) days after publication in the **Federal Register**.

Dated: January 19, 2022.

David P. Shaw,

Chief Copyright Royalty Judge.

[FR Doc. 2023–01521 Filed 1–25–23; 8:45 am]

BILLING CODE 1410–72–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2022–0477; FRL–10516–01–R5]

Air Plan Approval; Ohio; Sulfur Dioxide Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve, under the Clean Air Act (CAA), revised sulfur dioxide (SO_2) regulations submitted by Ohio on May 23, 2022. Ohio updated its regulations to correct facility information which has changed, remove requirements for shutdown facilities and units, update references, consolidate county-wide requirements, address style changes, and revise requirements for the Veolia Fort Hill plant in Miami, Ohio and DTE St. Bernard facility in Cincinnati, Ohio. EPA believes that the revisions improve the clarity of the rules without affecting the stringency and therefore is proposing to approve the submitted revisions with exception of selected paragraphs in Ohio Administrative Code (OAC) Chapter 3745–18.

DATES: Comments must be received on or before February 27, 2023.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2022–0477 at *https://www.regulations.gov,* or via email to *blakley.pamela@epa.gov@epa.gov.* For comments submitted at *Regulations.gov,* follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Tyler Salamasick, Life Scientist, Control Strategies Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6206, *salamasick.tyler@epa.gov.*

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

I. Background

Ohio law requires a five-year review of all regulations in which the state cleans up and clarifies existing rules. Ohio conducted a review of OAC Chapter 3745–18 ''Sulfur Dioxide Regulations'' that contains Ohio's air emission regulations for SO_2 and includes both generally applicable rules and county specific rules. The state revised the rules to correct facility information which has changed, remove requirements for shutdown facilities and units, update references, consolidate county-wide requirements, address style changes, remove facility-specific requirements for the DTE St. Bernard facility in Cincinnati, Ohio, and revise requirements for the Veolia Fort Hill plant in Miami, Ohio. On May 23, 2022, Ohio submitted the revised rule to EPA as a revision to Ohio's state implementation plan (SIP). Ohio held a public hearing on the revised rule on December 16, 2021. Ohio provided a summary of the comments received and its responses to the comments.

II. EPA Review

EPA has reviewed Ohio's submitted revised SO_2 rules as discussed below.

Ohio revised OAC 3745–18–01 ''Definitions and incorporation by reference'' to update the Code of Federal Regulations publication dates. Throughout the rule, Ohio updated facility information, such as names and addresses, and revised rule language to reflect changes in style. These updates are merely administrative and do not change the requirements of the rule.

Ohio promulgated a new chapter, OAC 3745–18–02, ''General countywide emission limits.'' This rule does not create new requirements, but rather consolidates the countywide emission limits previously contained in county specific rules. Correspondingly, Ohio rescinded the county specific rules that had been incorporated into the general countywide emission limits and contained no facility specific information. These revisions do not change the applicable requirements of the rules.

Ohio removed facility information for the facilities and emissions units that were permanently shut down. The removal of obsolete emission limits for units that have permanently closed and for which the permits to operate have been revoked does not indicate permission to increase emissions. If the facilities were to restart operations, Ohio would require a new permit-to-install, which would establish new emissions limits based on the current SO_2 standard.

Ohio removed the facility-specific requirements in OAC 3745–18–37(GG) for the DTE St. Bernard facility. These requirements were originally promulgated to regulate sulfur emissions from coal fired boilers in use at the facility. DTE St. Bernard removed the remaining coal fired boiler and replaced it with a natural gas boiler. DTE St. Bernard's state permit now requires the facility to only use natural

gas in the emissions unit. Because OAC 3745–18–06(A) exempts units from SO_2 control requirements when natural gas is the only fuel burned, and DTE St. Bernard's permit prohibits the facility from burning coal, the removal of the facility-specific SO_2 requirements in OAC 3745–18–37(GG) for DTE St. Bernard does not relax the requirements applicable to the facility.

Ohio also updated OAC 3745–18–37(KK) for the Veolia Fort Hill facility to comply with best available control technology (BACT) and set a lower short-term emission limit and mass cap, as required by an EPA consent decree. Ohio performed air dispersion modeling which demonstrated lower SO_2 concentrations for both the 3-hour and 24-hour averaging periods, as compared to the pre-consent decree SIP requirements in OAC 3145–18–37(KK). Also, Ohio determined, when making area designation recommendations for Round 3 of the 2010 1-hour SO_2 national ambient air quality standards (NAAQS), the Veolia Fort Hill facility did not have a significant impact. EPA agreed with Ohio's determination and approved Ohio's Round 3 designations (without this facility) on January 9, 2018 (83 FR 1098).

CAA section 110(l) states that SIP revisions cannot be approved if they interfere with applicable requirements concerning attainment of an air quality standard or making reasonable further progress. Ohio's revisions to OAC 3745–18 do not allow for an increase in emissions and are expected to be protective of the NAAQS. Therefore, this proposed revision to the SIP is consistent with the requirements of CAA section 110(l).

III. What action is EPA taking?

EPA is proposing to approve the revisions to OAC 3745–18 SO_2 rules submitted by Ohio into Ohio's SIP on May 23, 2022, with the exception of selected paragraphs in OAC 3745–18–04.

EPA is proposing not to act on OAC 37–18–04(D)(2), (D)(3), (D)(6), (E)(2), (E)(3), and (E)(4). These paragraphs have not been previously approved by EPA and are outside the intent of this proposed SIP revision—to improve the clarity of the rules.

IV. Incorporation by Reference

In this action, EPA is proposing to include final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference Ohio rules OAC 3745–18–01 through OAC 3745–18–06 [with the exception of OAC 3745–18–04(D)(2), (D)(3), (D)(6), (E)(2), (E)(3), and (E)(4)], OAC 3745–18–08, OAC 3745–18–10, OAC 3745–18–11, OAC 3745–18–15, OAC 3745–18–23, OAC 3745–18–24, OAC 3745–18–26, OAC 3745–18–28, OAC 3745–18–31, OAC 3745–18–33, OAC 3745–18–35, OAC 3745–18–37, OAC 3745–18–47, OAC 3745–18–49, OAC 3745–18–53, OAC 3745–18–54, OAC 3745–18–56, OAC 3745–18–61, OAC 3745–18–63, OAC 3745–18–68, OAC 3745–18–69, OAC 3745–18–77, OAC 3745–18–78, OAC 3745–18–80, OAC 3745–18–82 through OAC 3745–18–85, OAC 3745–18–91, and OAC 3745–18–92, as effective on February 2, 2022, discussed in section II of this preamble. EPA has made, and will continue to make, these documents generally available through *www.regulations.gov* and at the EPA Region 5 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

Also in this document, EPA is proposing to remove EPA-Approved Ohio rules OAC 3745–18–07, OAC 3745–18–09, OAC 3745–18–12 through OAC 3745–18–14, OAC 3745–18–16 through OAC 3745–18–22, OAC 3745–18–25, OAC 3745–18–27, OAC 3745–18–29, OAC 3745–18–30, OAC 3745–18–32, OAC 3745–18–34, OAC 3745–18–36, OAC 3745–18–38 through OAC 3745–18–46, OAC 3745–18–48, OAC 3745–18–50 through OAC 3745–18–52, OAC 3745–18–55, OAC 3745–18–57 through OAC 3745–18–60, OAC 3745–18–62, OAC 3745–18–64, OAC 3745–18–65, OAC 3745–18–67, OAC 3745–18–70 through OAC 3745–18–76, OAC 3745–18–79, OAC 3745–18–81, OAC 3745–18–86 through OAC 3745–18–89, OAC 3745–18–93, and OAC 3745–18–94 from the Ohio SIP, which is incorporated by reference in accordance with the requirements of 1 CFR part 51.

V. Statutory and Executive Order Reviews

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

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

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Sulfur oxides.

Dated: January 19, 2023.

Debra Shore,

Regional Administrator, Region 5.

[FR Doc. 2023–01502 Filed 1–25–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[EPA–HQ–OPPT–2022–0867; FRL 9655–01–OCSPP]

RIN 2070–AL10

Per- and Poly-Fluoroalkyl Chemical Substances Designated as Inactive on the TSCA Inventory; Significant New Use Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Under the Toxic Substances Control Act (TSCA), EPA is proposing a significant new use rule (SNUR) for those per- and poly-fluoroalkyl substances (PFAS) that have not been manufactured (including imported) or processed for many years and are consequently designated as inactive on the TSCA Chemical Substance Inventory. PFAS are a group of chemicals that have been used in industry and consumer products since the 1940s because of their useful properties, such as water and stain resistance. Many PFAS break down very slowly and can build up in people, animals, and the environment over time. Exposure at certain levels to specific PFAS can adversely impact human health and other living things. Persons subject to the SNUR would be required to notify EPA at least 90 days before commencing any manufacture (including import) or processing of the chemical substance for a significant new use. Once EPA receives a notification, EPA must review and make an affirmative determination on the notification, and take such action as is required by any such determination before the manufacture (including import) or processing for the significant new use can commence. Such a review will assess whether the use may present unreasonable risk to health or the environment and ensure that EPA can prevent future unsafe environmental releases of the PFAS subject to this SNUR.

DATES: Comments must be received on or before March 27, 2023.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2022–0867, using the Federal eRulemaking Portal at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Bethany Masten, Existing Chemicals Risk Management Division (7404M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–8803; email address: *TSCA_PFAS@epa.gov.*

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

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. Does this action apply to me?

You may be potentially affected by this action if you manufacture (including import), process, or distribute in commerce chemical substances and mixtures. 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:

- NAICS 324—Petroleum and Coal Product Manufacturing;
- NAICS 221210—Natural Gas Distribution;
- NAICS 236220—Commercial and Institutional Building Construction;
- NAICS 324—Petroleum and Coal Product Manufacturing;
- NAICS 32419—Petroleum Lubricating Oil and Grease Manufacturing;
- NAICS 325—Chemical Manufacturing;
- NAICS 325120—Industrial Gas Manufacturing;
- NAICS 325180—Other Basic Inorganic Chemical Manufacturing;
- NAICS 325199—All Other Basic Organic Chemical Manufacturing;
- NAICS 325211—Plastics Material and Resin Manufacturing;
- NAICS 325212—Synthetic Rubber Manufacturing;
- NAICS 325220—Artificial and Synthetic Fibers and Filaments Manufacturing;
- NAICS 325320—Pesticide and Other Agricultural Chemical Manufacturing;
- NAICS 325411—Medicinal and Botanical Manufacturing;
- NAICS 325412—Pharmaceutical Preparation Manufacturing;
- NAICS 325612—Polish and Other Sanitation Good Manufacturing;
- NAICS 325613—Surface Active Agent Manufacturing;
- NAICS 325998—All Other Miscellaneous Chemical Product and Preparation Manufacturing;
- NAICS 326113—Unlaminated Plastics Film and Sheet (except Packaging) Manufacturing;
- NAICS 327910—Abrasive Product Manufacturing;
- NAICS 333999—All Other Miscellaneous General Purpose Machinery Manufacturing;
- NAICS 334511—Search, Detection, Navigation, Guidance, Aeronautical, and Nautical System and Instrument Manufacturing;
- NAICS 336111—Automobile Manufacturing;
- NAICS 423120—Motor Vehicle Supplies and New Parts Merchant Wholesalers;
- NAICS 423420—Office Equipment Merchant Wholesalers;
- NAICS 423510—Metal Service Centers and Other Metal Merchant Wholesalers;
- NAICS 423740—Refrigeration Equipment and Supplies Merchant Wholesalers;
- NAICS 423990—Other Miscellaneous Durable Goods Merchant Wholesalers;
- NAICS 424690—Other Chemical and Allied Products Merchant Wholesalers;
- NAICS 424720—Petroleum and Petroleum Products Merchant Wholesalers (except Bulk Stations and Terminals);
- NAICS 424950—Paint, Varnish, and Supplies Merchant Wholesalers;
- NAICS 441110—New Car Dealers;
- NAICS 447190—Other Gasoline Stations;
- NAICS 551112—Offices of Other Holding Companies; and
- NAICS 562—Waste Management and Remediation Services.

This action may also affect certain entities through pre-existing import certification and export notification rules under TSCA. Persons who import any chemical substance governed by a final SNUR are subject to the TSCA section 13 (15 U.S.C. 2612) import certification requirements and the corresponding regulations at 19 CFR 12.118 through 12.127; see also 19 CFR 127.28. Those persons must certify that the shipment of the chemical substance complies with all applicable rules and orders under TSCA, including any SNUR requirements. The EPA policy in support of import certification appears

at 40 CFR part 707, subpart B. In addition, any persons who export or intend to export a chemical substance that is the subject of a proposed or final SNUR are subject to the export notification provisions of TSCA section 12(b) (15 U.S.C. 2611(b)); (see also 40 CFR part 707, subpart D and 40 CFR 721.20).

If you have any questions regarding the applicability of this action to a particular entity, consult the technical information contact listed under **FOR FURTHER INFORMATION CONTACT**.

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

TSCA section 5(a)(2) (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a ''significant new use.'' EPA must make this determination by rule after considering all relevant factors, including those listed in TSCA section 5(a)(2) (see Unit IV). Once EPA determines that a use of a chemical substance is a significant new use, TSCA section 5(a)(1) requires persons to submit a significant new use notice (SNUN) to EPA at least 90 days before they manufacture (including import) or process the chemical substance for that use (15 U.S.C. 2604(a)(1)(B)(i)). TSCA further provides that such manufacturing (including import) or processing may not commence until EPA has conducted a review of the notice, made an appropriate determination on the notice, and taken such actions as are required in association with that determination (15 U.S.C. 2604(a)(1)(B)(ii)). As described in Unit V., the general SNUR provisions are found at 40 CFR part 721, subpart A.

TSCA section 26(c) (15 U.S.C. 2625(c)) authorizes EPA to take action under other sections of TSCA with respect to categories of chemical substances.

C. What action is the Agency taking?

To protect health and the environment and ensure EPA review of significant new uses of certain PFAS, EPA is proposing a SNUR for those PFAS that are currently on the TSCA Inventory but which have not been actively manufactured (including imported) or processed in the U.S. since 2006 and are consequently designated as inactive on the TSCA Chemical Substance Inventory. PFAS are a group of synthetic chemicals that have been in use since the 1940s and are still used in a wide range of consumer products and industrial applications. This proposed action is part of the comprehensive approach outlined in the Agency's ''PFAS Strategic Roadmap: EPA's Commitments to Action 2021–2024'' to proactively prevent PFAS from entering air, land, and water at levels that can adversely impact human health and the environment (Ref. 1).

If a chemical is on the TSCA Chemical Substance Inventory (''TSCA Inventory''), that chemical substance is considered an ''existing'' chemical substance in U.S. commerce. In some instances, the chemicals listed on the TSCA Inventory have not been actively manufactured for many years and are designated as ''inactive'' on the TSCA Inventory. The chemical substances for which EPA is proposing a SNUR are those PFAS that are both currently designated as inactive on the TSCA Inventory and not subject to an existing SNUR, including the existing SNURs cited at 40 CFR 721.9582 and 721.10536. This category of PFAS chemical substances (''inactive PFAS'') is described further in Unit II.A. There are 330 inactive PFAS that are not subject to an existing SNUR. The specific chemical identities for 30 of these substances that have been claimed as CBI have generic names (the nonconfidential substitute for the specific chemical name) that do not contain ''fluor'' or ''fluorine.''

The proposed significant new uses are manufacture (including import) or processing for any use. The proposed significant new uses EPA has identified in this unit are based on reasonably available information that indicates that these uses are not ongoing at the time of this proposed rule; according to the TSCA Inventory they are inactive, meaning that those chemicals have not been manufactured (including imported) or processed in the United States since June 21, 2006. EPA is requesting public comment on this proposal, and specifically on the Agency's description of the significant new uses for the chemicals identified, including specific documentation of ongoing uses, if any.

This proposed SNUR would require persons that intend to manufacture (including import) or process any of these chemicals for a significant new use, consistent with the requirements at 40 CFR 721.25, to notify EPA at least 90 days before commencing such manufacture (including import) or processing. Once EPA receives a notification, EPA must either determine that the significant new use is not likely to present an unreasonable risk of injury to health or the environment, or take such regulatory action as is associated with an alternative determination, before the manufacture or processing for the significant new use could commence.

D. Why is the Agency taking this action?

As noted previously, this action is part of the comprehensive approach outlined in the Agency's ''PFAS Strategic Roadmap: EPA's Commitments to Action 2021–2024'' to proactively prevent PFAS from entering air, land, and water at levels that can adversely impact human health and the environment (Ref. 1). When TSCA was first passed, thousands of chemicals, including some PFAS, were grandfathered in under the statute and allowed to remain in commerce without additional EPA review. Before TSCA was amended in 2016, EPA completed formal reviews on only about 20% of new chemicals and had no authority to address new chemicals about which the Agency lacked sufficient information, which is part of the reason why many chemicals, including PFAS, were allowed into commerce without a complete review. Under the new law, the agency has to formally review the safety of 100% of new chemicals before they are allowed into commerce. One common characteristic of concern of PFAS is that many break down very slowly and can build up in people, animals, and the environment over time. This proposed SNUR is necessary to ensure that EPA receives timely advance notice of any future manufacturing (including import) or processing of inactive PFAS for new uses that may produce changes in human or environmental exposures, and to ensure that an appropriate determination (relevant to the risks associated with such manufacturing (including import), processing, distribution in commerce, use and disposal) has been issued prior to the commencement of such manufacturing (including import) or processing. The proposed action is necessary to ensure that manufacturing (including importing) or processing for the significant new use cannot proceed in the event that EPA determines that: (1) The significant new use presents an unreasonable risk under the conditions of use (without consideration of costs or other nonrisk factors, and including an unreasonable risk to a potentially exposed or susceptible subpopulation identified as relevant by EPA); (2) The information available to EPA is insufficient to permit a reasoned evaluation of the health and environmental effects of the significant new use; (3) In the absence of sufficient information, the manufacture (including import), processing, distribution in commerce, use, or disposal of the substance, or any combination of such

activities, may present an unreasonable risk (without consideration of costs or other nonrisk factors, and including an unreasonable risk to a potentially exposed or susceptible subpopulation identified as relevant by EPA), or (4) There is sufficient potential for environmental release or human exposure (as defined in TSCA section 5(a)(3)(B)(ii)(II)). In order for manufacturing (including importing) or processing for the significant new use to proceed after EPA has made one of the 4 determinations described above, EPA must take actions under TSCA sections 5(e) or 5(f) to protect health and the environment.

With respect to the chemical substances listed in the proposed regulatory text, all manufacturing (including importing) and processing ceased on or before June 21, 2006, as discussed in Unit II.A. Any new manufacturing (including importing) or processing for any use following that date would thus significantly change the volume of production, which is believed to be negligible.

EPA is proposing to exempt from the notice requirement PFAS present as impurities, certain byproducts, and the importing or processing of inactive PFAS-containing articles defined at 40 CFR 721.45(d) through (f) because notification for the commercial activity designation (as active or inactive) on the TSCA Inventory is not required for such substances (see 40 CFR 710.27(a)).

The rationale and objectives for this proposed SNUR are further explained in Unit III.

E. What are the estimated incremental impacts of this action?

EPA has evaluated the potential costs of establishing SNUR reporting requirements for potential manufacturers (including importers) and processors of the chemical substances included in this proposed rule. This analysis (Ref. 2), which is available in the docket, is discussed in Unit IX., and is briefly summarized here.

In the event that a SNUN is submitted, costs are estimated to be approximately $26,737 per SNUN submission for large business submitters and $11,047 for small business submitters. In addition, for persons exporting a substance that is the subject of a SNUR, a one-time notice to EPA must be provided for the first export or intended export to a particular country, which is estimated to be approximately $106 per notification.

F. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *https://www.regulations.gov* or email. Clearly mark the part or all the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI, and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *https://www.epa.gov//commenting-epa-dockets.*

3. *Comments about ongoing uses of inactive PFAS.* EPA welcomes comment on all aspects of this proposed rule. In providing comments on an ongoing use of inactive PFAS, it would be helpful if you provide sufficient information for EPA to substantiate any assertions of an ongoing use.

II. Chemical Substances Subject to This Proposed Rule

A. What chemicals substances are subject to this proposed SNUR?

This proposed SNUR would apply to chemical substances designated as inactive on the TSCA Inventory that are also PFAS. However, EPA is proposing that inactive PFAS already subject to a significant new use rule, including but not limited to the significant new use rules cited at 40 CFR 721.9582 and 721.10536, are not subject to notice requirements under this section to avoid potential redundancies or conflicts between the SNURs. Inactive chemical substances on the TSCA Inventory are those chemical substances that have not been manufactured (including imported) or processed since June 21, 2006.

TSCA section 8(b) requires EPA to compile, keep current and publish a list of each chemical substance that is manufactured (including imported) or processed in the United States for uses under TSCA. Also called the ''TSCA Inventory'' or simply ''the Inventory,'' it plays a central role in the regulation of most industrial chemicals in the United States. TSCA also requires EPA to designate each chemical substance on the TSCA Inventory as either ''active'' or ''inactive'' in U.S. commerce (15 U.S.C. 2607(b)(4)(A)). To accomplish that, EPA finalized a rule requiring industry to notify the Agency of each chemical substance manufactured (including imported) or processed in the U.S. over a 10-year period ending on June 21, 2016 (with certain exemptions from reporting at 40 CFR 710.27(a)) (Ref. 3). This reporting was completed on October 5, 2018 and, combined with data received under the Chemical Data Reporting (CDR) rule in 2012 and 2016, was used to designate each chemical substance on the TSCA Inventory as active or inactive in U.S. commerce. Starting August 5, 2019, manufacturers (including importers) and processors have been required to notify EPA before reintroducing inactive substances into U.S. commerce. Moving a chemical substance from an inactive designation to an active designation on the TSCA Inventory does not require review by EPA, only that EPA be notified via a Notice of Activity form.

EPA has published several SNURs covering certain perfluoroalkyl sulfonates (67 FR 11007, March 11, 2002 (FRL–6823–6); 67 FR 72854, December 9, 2002 (FRL–7279–1); 72 FR 57222, October. 9, 2007 (FRL–8150–4); 78 FR 62443, October 22, 2013 (FRL–9397–1)) and long-chain perfluoroalkyl carboxylate chemical substances (85 FR 45124, July 27, 2020 (FRL–10010–44)), that use a structural definition, as opposed to a discrete list, for the PFAS covered in the SNURs. Additionally, other SNURs (85 FR 45124, July 27, 2020 (FRL–10010–44; 58 FR 27944, May 12, 1993 (FRL–4077–7), as amended at 58 FR 34204, June 23, 1993 (FRL–4587–1)) and the polymer exemption rule for pre-manufacture notices (PMNs) (60 FR 16316–16336, March 29, 1995 (FRL–4929–8)) define covered PFAS polymers using structural definitions (40 CFR 723.250)). Other scientific and regulatory bodies such as the Organization of Economic Cooperation and Development (OECD) (Ref. *4*) have defined PFAS using various structural definitions. Thus, there is precedent for using a structural definition both for TSCA rules and for actions addressing PFAS. EPA is proposing to adopt a structural definition for this rule based, in part, on this history of using structural definitions to establish the scope of chemical substances covered by a SNUR.

For the purposes of this proposed SNUR, the definition of ''PFAS'' includes chemicals that contain at least one of these three structures:

- R-(CF2)-CF(R′)R″, where both the CF2 and CF moieties are saturated carbons;
- R-CF2OCF2-R′, where R and R′ can either be F, O, or saturated carbons; or
- CF3C(CF3)R′R″, where R′ and R″ can either be F or saturated carbons.

While this proposed definition was developed to focus on substances most likely to be persistent in the environment while excluding those substances that are ''lightly'' fluorinated (*i.e.,* the molecule only contains unconnected CF2 or CF3 moieties), EPA acknowledges that substances that are not fully fluorinated may still be persistent in the environment, as the persistence of organofluoro compounds is more related to the density of C–F bonds within the molecule than to the existence of fully fluorinated carbons. For this SNUR, the proposed definition's R group requirements do not include substances that only have a single fluorinated carbon, or unsaturated fluorinated moieties (*e.g.,* fluorinated aromatic rings and olefins), which are more susceptible to chemical transformation than their saturated counterparts, and therefore, are less likely to persist in the environment (Ref. 5). As such, EPA has determined that, for the purpose of this proposed rule, the definition does not include substances that only have a single fluorinated carbon or unsaturated fluorinated moieties.

EPA notes that this definition may not be identical to other definitions of PFAS used within EPA or by other domestic or international organizations. The term ''PFAS'' has been used broadly for varying research and/or regulatory needs. Various EPA programs may have distinct needs or purposes from this proposed SNUR, and therefore, different definitions of the term ''PFAS'' may be appropriate for other purposes. EPA does not have one Agency-wide definition of PFAS. For example, a definition from EPA's Office of Water might focus on PFAS that have been detected in water, whereas a definition for TSCA might be one for PFAS that are expected the be manufactured and processed for uses subject to TSCA. The Agency notes that this perspective, that different entities may have very different needs and no single PFAS characterization or definition meets all needs, is shared by other organizations, including the OECD (Ref. *4*). EPA seeks comment on whether the above definition of PFAS is the most appropriate definition for this SNUR and acknowledges that there may be other rules or programs that apply different definitions to meet their own needs.

Chemical substances that fall within the scope of this proposed definition of PFAS encompass chemical substances that meet the structural definitions used in existing SNURs covering PFAS. However, the proposed regulatory text clarifies that PFAS subject to an existing SNUR would be excluded from this proposed SNUR. The Agency is proposing to exclude these substances from the scope of this proposed rule to avoid potential redundancies or conflicts between the SNURs. Such conflicts may arise because of chemical or use-specific exemptions from the existing significant new uses or because EPA had a reason to lift general exemptions from an existing SNUR that would still apply under this proposed SNUR.

The chemical substances for which EPA is proposing a SNUR are the 330 PFAS that are both currently designated as inactive on the TSCA Inventory and not subject to an existing SNUR. The specific chemical identities for 30 of these substances that have been claimed as CBI have generic names (the nonconfidential substitute for the specific chemical name) that do not contain ''fluor'' or ''fluorine.'' EPA is providing a list of the 300 inactive PFAS that do not mask ''fluor'' or ''fluorine'' in the generic name in the public docket for this proposed rule (Ref. 6). Because EPA is proposing to use a structural definition of PFAS for this SNUR, EPA need not take additional steps to ensure that the SNUR lists the 30 inactive PFAS that are not subject to an existing SNUR and whose generic names do not contain ''fluor'' or ''fluorine''. The specific chemical identities of these substances have been claimed as CBI, and their generic names are the nonconfidential substitute for the specific chemical name that is treated as confidential. TSCA section 14(c)(1)(C) requires that generic names describe the chemical structure of the chemical substance as specifically as practicable while protecting those features of the chemical structure that are claimed as confidential; and the disclosure of which would be likely to cause substantial competitive harm. Generic names are intended to reveal information about the chemical identity while masking those structural elements that are confidential. The lack of ''fluor'' or ''fluorine'' in a generic name masks that the chemical substance is a PFAS and information masked by a generic name is considered to be subject to a CBI claim. Therefore, listing the generic names of these substances on a list of PFAS would disclose structural information for these substances that has been claimed CBI. As a courtesy, EPA is also providing a list of 300 inactive PFAS that do not mask ''fluor'' or ''fluorine'' in the generic name in the public docket for this proposed rule (Ref. 6).

EPA seeks comment on whether the Agency should take further action to list out in the regulation either the specific chemical identity or generic name of all of the chemicals that fall within the scope of the proposed SNUR, including those with generic names that mask that the chemical substance as PFAS, since this proposed rule covers a specific list of substances. EPA describes two approaches that it could take to make such a list available below and seeks public input on each such approach.

First, EPA could determine that there are no applicable CBI claims for the generic names of the masked PFAS substances using the process described in 40 CFR 2.204(c). In other words, EPA could use that process to determine that the limited structural information that would be disclosed by identifying substances whose generic names do not include ''fluor'' or ''fluorine'' as PFAS is not CBI. EPA proposes making a good faith effort to identify and contact the original submitters of each such PFAS and/or document that EPA cannot find a successor entity to a submitter that does not continue to operate, then determining that the generic names that do not include ''fluor'' or ''fluorine'' are not entitled to confidential treatment under 40 CFR 2.204(c)(3).

Alternatively, EPA could use the process under TSCA section 14(d)(7) and 40 CFR 2.306(i)/2.301(g)(2), whereby the Agency may disclose information claimed CBI if the Administrator determines that disclosure is relevant in a proceeding under TSCA and the disclosure preserves confidentiality to the extent practicable without impairing the proceeding. Under this alternative, EPA would not disclose the specific chemical identity as part of the rulemaking. Rather, EPA would list the generic names that lack fluor or fluorine, disclosing that the chemical is a PFAS. EPA believes this is a limited form of disclosure that would be consistent with TSCA section 14(d)(7).

B. What are the uses and production volumes of inactive PFAS?

As discussed previously, the term inactive PFAS refers to PFAS that EPA designated as ''inactive'' in U.S. commerce on the TSCA Inventory (15 U.S.C. 2607(b)(4)(A)). Starting August 5, 2019, manufacturers (including importers) and processors have been required to provide notice to EPA to

change the commercial activity designation from inactive to active before using a chemical substance designated as inactive on the TSCA Inventory for a nonexempt commercial purpose (Ref. 3). The Agency has not received such notifications for any of the PFAS currently designated as inactive on the TSCA Inventory. This indicates that all such PFAS, which include the PFAS covered by this proposed SNUR, are no longer being manufactured (including imported) or processed for any nonexempt uses in the United States. EPA acknowledges that the reporting of commercial activity under the TSCA Inventory Notification (Active-Inactive) Requirements Rule (''Active-Inactive rule'') was not required for several activities, including but not limited to, the import or processing of a chemical substance as part of an article (40 CFR 710.27(a)(2)) and the manufacturing or processing of a chemical substance in small quantities solely for research and development (40 CFR 710.27(a)(1)). Thus, there may be ongoing uses of inactive PFAS for these exempt activities. These uses would be exempt from this proposed inactive SNUR pursuant to the general SNUR exemptions at 40 CFR 721.45. The Agency solicits comment on any ongoing activities exempt from the Active-Inactive Rule that entities believe would not be covered by the general SNUR exemptions. The Agency expects to receive additional information about any ongoing use of PFAS in processed or imported articles as part of the separate TSCA section 8(a)(7) PFAS reporting rule that was proposed on June 28, 2021 (June 28, 2021, 86 FR 33962), once it is finalized, and EPA may consider making inapplicable the exemption for articles in the future, as discussed in Unit X.

The Active-Inactive Rule also includes an exemption from notification for the manufacturing or processing of a chemical substance as described in 40 CFR 720.30(g) or (h) (40 CFR 710.27(a)(3)). Relevant to this proposed rule, the exemption at 40 CFR 720.30(h) covers ''[a]ny byproduct which is not used for commercial purposes.'' Thus, there may be inactive PFAS that were not reported under the Active-Inactive Rule because they were only manufactured or processed as byproducts that are not used for commercial purposes. There is no such broad exemption for byproducts in EPA's general SNUR regulations at 40 CFR 721.45. Rather, EPA has only exempted byproducts from SNUR notification requirements in the limited circumstances where:

> [t]he person manufactures, imports, or processes the substance only as a byproduct which is used only by public or private organizations that (1) burn it as a fuel, (2) dispose of it as a waste, including in a landfill or for enriching soil, or (3) extract component chemical substances from it for commercial purposes. 40 CFR 721.45(e).

Therefore, without an exemption in the general regulations or in the proposed regulatory text, manufacturing or processing of the inactive PFAS as a byproduct would be a significant new use. EPA solicits comment on any ongoing manufacturing or processing of inactive PFAS subject to this SNUR as a byproduct and whether to include a broader exemption for manufacturing or processing as a byproduct in this inactive PFAS SNUR.

C. What are the potential routes and sources of exposure to inactive PFAS?

Due to their widespread use and persistence in the environment, most people in the United States have been exposed to PFAS. Biological sampling has discovered the presence of certain PFAS in fish and in fish-eating birds across the United States and in locations in Canada, Sweden, and the South Pacific. The wide distribution of the chemicals in high trophic levels is strongly suggestive of the potential for bioaccumulation and/or bioconcentration. Based on currently available information, EPA believes that in addition to persistence, the length of the perfluorinated chain may also have an effect on bioaccumulation and toxicity, which are characteristics of concern for these chemicals (Ref. 7). EPA expects that there are likely limited potential routes and sources of exposure to the inactive PFAS covered by the proposed SNUR because these substances have not been manufactured or processed for nonexempt uses in the United States since 2006. However, exposure may be possible because some PFAS are known to persist in the environment and have been shown to bioaccumulate in wildlife and humans (Refs. 7 and 8).

III. Rationale and Objectives

A. What is the rationale?

When TSCA was first passed, thousands of chemicals, including some PFAS, were grandfathered in under the statute and allowed to remain in commerce without additional EPA review. Before TSCA was amended in 2016, EPA completed formal reviews on only about 20% of new chemicals and had no authority to address new chemicals about which the Agency lacked sufficient information, which is part of the reason why many chemicals, including PFAS, were allowed into commerce without a complete review. Under the new law, the agency has to formally review the safety of 100% of new chemicals before they are allowed into commerce. On October 18, 2021, EPA issued the ''PFAS Strategic Roadmap: EPA's Commitments to Action 2021–2024'' (Ref. 1). This proposed action is part of a comprehensive approach to proactively prevent PFAS from entering air, land, and water at levels that can adversely impact human health and the environment. In the Roadmap, EPA committed to considering how to apply TSCA section 5(a)(2) authority to help address abandoned uses of PFAS as well as future uses of PFAS designated as inactive on the TSCA Inventory.

In the absence of a SNUR, manufacturing (including importing) or processing for the significant new uses proposed in this rule may begin at any time after a manufacturer submits a Notice of Activity under section 8 of TSCA and the substance becomes ''active'' on the TSCA Inventory; EPA would not be provided prior notice under section 5 or an opportunity to review and address potential risks associated with the proposed new use. EPA believes that the manufacture (including import) or processing for any use of inactive PFAS would increase the magnitude and duration of exposure to humans and the environment to these chemicals that are persistent and bioaccumulate. Given the concerns described in Unit II., EPA believes that notification and EPA's required review are warranted for these chemicals prior to their potential reintroduction into commerce.

Consistent with EPA's past practice for issuing SNURs under TSCA section 5(a)(2), EPA's decision to propose a SNUR for a particular chemical use need not be based on an extensive evaluation of the hazard, exposure, or potential risk associated with that use. If a person decides to begin manufacturing (including importing) or processing any of these chemicals for the use, the notice to EPA allows the Agency to evaluate the use according to the specific parameters and circumstances surrounding the conditions of use at the time it receives such a notification.

B. What are the objectives?

Based on the considerations in Unit III.A., EPA wants to achieve the following objectives with regard to the significant new use(s) of inactive PFAS that are designated in this proposed rule:

1. EPA would receive notice of any person's intent to manufacture (including import) or process the chemical substances for the described significant new use before that activity begins.

2. EPA would have an opportunity to review and evaluate information submitted in a SNUN before the notice submitter begins manufacturing (including importing) or processing the chemical substances for the described significant new use.

3. EPA must either determine that the significant new use is not likely to present an unreasonable risk of injury or take such regulatory action as is associated with an alternative determination under TSCA section 5 before the manufacture or processing for the significant new use could commence.

IV. Significant New Use Determination

TSCA section 5(a)(2) states that EPA's determination that a use of a chemical substance is a significant new use must be made after consideration of all relevant factors including:

- The projected volume of manufacturing and processing of a chemical substance.
- The extent to which a use changes the type or form of exposure of human beings or the environment to a chemical substance.
- The extent to which a use increases the magnitude and duration of exposure of human beings or the environment to a chemical substance.
- The reasonably anticipated manner and methods of manufacturing (including importing), processing, distribution in commerce, and disposal of a chemical substance.

In addition to these factors enumerated in TSCA section 5(a)(2), the statute authorizes EPA to consider any other relevant factors.

To determine what would constitute a significant new use of an inactive PFAS, EPA considered relevant information about the toxicity or expected toxicity of these substances, likely human exposures and environmental releases associated with possible uses, and the four factors listed in section 5(a)(2) of TSCA. Since the manufacture (including import) and processing of inactive PFAS has been discontinued in the United States see Unit II., exposure will decrease over time. As such, EPA expects their presence in humans and the environment to decline over time. If any new uses of inactive PFAS were to resume after having been phased out, EPA believes that such uses could both change the type and form and increase the magnitude and duration of human and environmental exposure to the substances, constituting a significant new use. Based on consideration of the statutory factors discussed herein, EPA has preliminarily determined as significant new uses: manufacture (including import) or processing of inactive PFAS for any use.

V. Applicability of General Provisions

General provisions for SNURs appear under 40 CFR part 721, subpart A. These provisions describe persons subject to the proposed rule, recordkeeping requirements, exemptions to reporting requirements, and applicability of the proposed rule to uses occurring before the effective date of the final rule.

Provisions relating to user fees appear at 40 CFR part 700. According to 40 CFR 721.1(c), persons subject to SNURs must comply with the same notice requirements and EPA regulatory procedures as submitters of PMNs under TSCA section 5(a)(1)(A). In particular, these requirements include the information submission requirements of TSCA sections 5(b) and 5(d)(1), the exemptions authorized by TSCA sections 5(h)(1), (h)(2), (h)(3), and (h)(5), and the regulations at 40 CFR part 720. Once EPA receives a SNUN, EPA must either determine that the significant new use is not likely to present an unreasonable risk of injury or take such regulatory action as is associated with an alternative determination under TSCA section 5 before the manufacturing (including importing) or processing for the significant new use could commence. If EPA determines that the significant new use is not likely to present an unreasonable risk, EPA is required under TSCA section 5(g) to make public, and submit for publication in the **Federal Register**, a statement of EPA's finding.

Persons who export or intend to export a chemical substance identified in a proposed or final SNUR are subject to the export notification provisions of TSCA section 12(b). The regulations that interpret TSCA section 12(b) appear at 40 CFR part 707, subpart D. Persons who import a chemical substance identified in a final SNUR are subject to the TSCA section 13 import certification requirements, codified at 19 CFR 12.118 through 12.127; see also 19 CFR 127.28. Those persons must certify that the shipment of the chemical substance complies with all applicable rules and orders under TSCA, including any SNUR requirements. The EPA policy in support of import certification appears at 40 CFR part 707, subpart B.

VI. Applicability of Rule to Uses Occurring Before Effective Date of the Final Rule

As discussed in the **Federal Register** of April 24, 1990 (55 FR 17376 (FRL–3658–5)), EPA has decided that the intent of the TSCA section 5(a)(1)(B) is best served by designating a use as a significant new use as of the date of publication of the proposed rule rather than as of the effective date of the final rule. This rule is being proposed on January 26, 2023. Uses arising after the publication of the proposed rule are distinguished from uses that exist at publication of the proposed rule. The former would be new uses, the latter ongoing uses, except that uses that are ongoing as of the publication of the proposed rule would not be considered ongoing uses if they have ceased by the date of issuance of a final rule.

Persons who begin commercial manufacturing (including importing) or processing of the chemical substances for a significant new use identified as of January 26, 2023 would have to cease any such activity upon the effective date of the final rule. To resume their activities, these persons would have to first comply with all applicable SNUR notification requirements and wait until all TSCA prerequisites for the commencement of manufacturing (including importing) or processing have been satisfied. Consult the **Federal Register** document of April 24, 1990 (55 FR 17376 (FRL–3658–5)) for a more detailed discussion of the cutoff date for ongoing uses.

VII. Development and Submission of Information

EPA recognizes that TSCA section 5 does not usually require developing new information (*e.g.,* generating test data) before submission of a SNUN. There is an exception: development of information is required where the chemical substance subject to the SNUR is also subject to a rule, order, or consent agreement under TSCA section 4 (see TSCA section 5(b)(1)).

In the absence of a section 4 test rule or order covering the chemical substance, persons are required to submit only information in their possession or control and to describe any other information known to or reasonably ascertainable by them (15 U.S.C. 2604(d); 40 CFR 721.25, and 40 CFR 720.50). However, as a general matter, EPA recommends that SNUN submitters include information that would permit a reasoned evaluation of risks posed by the chemical substance during its manufacture (including import), processing, distribution in

commerce, use, or disposal. Potentially useful information includes physical-chemical property data and any information related to persistence, bioaccumulation, toxicity, and other characteristics that may help predict the impact of a chemical substance on health or the environment. EPA encourages persons to consult with the Agency before submitting a SNUN. As part of this optional pre-notice consultation, EPA would discuss specific information it believes may be useful in evaluating a significant new use.

Submitting a SNUN that does not include information sufficient to permit a reasoned evaluation may increase the likelihood that EPA will either respond with a determination that the information available to the Agency is insufficient to permit a reasoned evaluation of the health and environmental effects of the significant new use or, alternatively, that in the absence of sufficient information, the manufacture, processing, distribution in commerce, use, or disposal of the chemical substance may present an unreasonable risk of injury.

SNUN submitters should be aware that EPA will be better able to evaluate SNUNs and define the terms of any potentially necessary controls if the submitter provides detailed information on human exposure and environmental releases that may result from the significant new use of the chemical substances.

VIII. SNUN Submissions

EPA recommends that submitters consult with the Agency prior to submitting a SNUN to discuss what information may be useful in evaluating a significant new use notice. Discussions with the Agency prior to submission can afford ample time to conduct any tests that might be helpful in evaluating risks posed by the substance. According to 40 CFR 721.1(c), persons submitting a SNUN must comply with the same notice requirements and EPA regulatory procedures as persons submitting a PMN, including submission of test data on health and environmental effects as described in 40 CFR 720.50. SNUNs must be submitted on EPA Form No. 7710–25, generated using e-PMN software, and submitted to the Agency in accordance with the procedures set forth in 40 CFR 721.25 and 40 CFR 720.40. E–PMN software is available electronically at *https://www.epa.gov/under-tsca.*

IX. Economic Analysis

A. What is the analysis for SNUNs?

EPA has evaluated the potential costs of establishing SNUR reporting requirements for potential manufacturers (including importers) and processors of the chemical substances included in this proposed rule (Ref. 2). In the event that a SNUN is submitted, costs are estimated at approximately $26,737 per SNUN submission for large business submitters and $11,047 for small business submitters. These estimates include the cost to prepare and submit the SNUN, and the payment of a user fee. Businesses that submit a SNUN would be subject to either a $19,020 user fee required by 40 CFR 700.45(b)(2)(iii), or, if they are a small business as defined at 13 CFR 121.201, a reduced user fee of $3,300 (40 CFR 700.45(b)(1)). Additionally, these estimates reflect the costs and fees as they are known at the time this rule is promulgated. EPA's complete economic analysis is available in the public docket for this proposed rule (Ref. 2).

B. What is the analysis for export notifications?

Under TSCA section 12(b) and the implementing regulations at 40 CFR part 707, subpart D, exporters must notify EPA if they export or intend to export a chemical substance or mixture for which, among other things, a rule has been proposed or promulgated under TSCA section 5. For persons exporting a substance that is the subject of a SNUR, a one-time notice to EPA must be provided for the first export or intended export to a particular country. The total costs of export notification will vary by chemical, depending on the number of required notifications (*i.e.,* the number of countries to which the chemical is exported). While EPA is unable to make any estimate of the likely number of export notifications for the chemical covered in this proposed SNUR, as stated in the accompanying economic analysis of this proposed SNUR, the estimated cost of the export notification requirement on a per unit basis is approximately $106.

X. Regulatory Alternative Considered

EPA is also requesting public comment on the alternative of lifting the article exemption at 40 CFR 721.45(f). Under this alternative, the import and processing of articles containing inactive PFAS would be designated as a significant new use. EPA is not proposing this regulatory alternative, at this time, because it cannot currently determine whether or what types of articles containing PFAS covered by the definition in this proposed SNUR are ongoing or not. The import or processing of substances solely as part of articles is exempt from the notification requirements under the Active-Inactive Rule (Ref. 3). Consequently, the TSCA Inventory does not list chemical substances that are solely processed or imported as part of articles. The TSCA Inventory list of inactive PFAS therefore does not take into account ongoing importation or processing of PFAS in articles. EPA's SNURs are often amended, however, as ongoing uses of the chemical substances are phased out. Therefore, as EPA collects evidence and determines that the importing or processing of inactive PFAS into articles is no longer ongoing, EPA may consider whether to make inapplicable the articles exemption at 40 CFR 721.45(f).

EPA also seeks comment on the potential impact on firms that plan to import or process articles containing inactive PFAS, because, while not required by the proposed SNUR, these parties may take additional steps to determine whether inactive PFAS are part of the articles that they are considering to import or process.

XI. Scientific Standards, Evidence, and Available Information

EPA has used scientific information, technical procedures, measures, methods, protocols, methodologies, and models consistent with the best available science, as applicable. These information sources supply information relevant to whether a particular use would be a significant new use, based on relevant factors including those listed under TSCA section 5(a)(2). As noted in Unit III., EPA's decision to promulgate a SNUR for a particular chemical use need not be based on an extensive evaluation of the hazard, exposure, or potential risk associated with that use.

The clarity and completeness of the data, assumptions, methods, quality assurance, and analyses employed in EPA's decision are documented, as applicable and to the extent necessary for purposes of this proposed significant new use rule, in Unit II. and in the references cited throughout the preamble of this proposed rule. EPA recognizes, based on the available information, that there is variability and uncertainty in whether any particular significant new use would actually present an unreasonable risk. For precisely this reason, it is appropriate to secure a future notice and review process for these uses, at such time as they are known more definitely. The

extent to which the various information, procedures, measures, methods, protocols, methodologies or models used in EPA's decision have been subject to independent verification or peer review is adequate to justify their use, collectively, in the record for a significant new use rule.

XII. References

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

1. U.S. EPA. ''PFAS Strategic Roadmap: EPA's Commitment to Action 2021–2024.'' EPA–100–K–21–002, October 2021.
2. U.S. EPA. ''Economic Analysis of the Proposed Significant New Use Rule Per- and Poly-fluoroalkyl Chemical Substances Designated as Inactive on the TSCA Inventory.'' January 2022.
3. U.S. EPA. TSCA Inventory Notification (Active-Inactive) Requirements; Final Rule, 82 FR 37520, August 11, 2017.
4. Organisation for Economic Co-operation and Development (OECD). ''Reconciling Terminology of the Universe of Per- and Polyfluoroalkyl Substances: Recommendations and Practical Guidance.'' July 9, 2021.
5. Buck, R.C., Korzeniowski, S.H., Laganis, E, and Adamsky, F. (2021). ''Identification and classification of commercially relevant per-and poly-fluoroalkyl substances (PFAS).'' *Integrated Environmental Assessment and Management,* 17, 1045–1055.
6. U.S. EPA. ''List of Select Chemicals Subject to the Proposed Significant New Use Rule Per- and Poly-fluoroalkyl Chemical Substances Designated as Inactive on the TSCA Inventory.'' January 2022.
7. Agency for Toxic Substances and Disease Registry (ATSDR). ''Toxicological Profile for Perfluoroalkyls.'' May 2021. Available from: *https://www.atsdr.cdc.gov/toxprofiles/tp200.pdf.*
8. Evich, Marina G, Davis, Mary J.B., McCord, James P., Acrey, Brad, Awkerman, Jill A., Knappe, Detlef R.U., Lindstrom, Andrew B., Speth, Thomas F., Tebes-Stevens, Caroline, Strynar, Mark J., Wang, Zhanyun, Weber, Eric J., Henderson, Matthew W., Washington, John W. (2022). Per- and polyfluoroalkyl substances in the environment. *Science.* 375: 6580, 1–14.

XIII. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *https://www.epa.gov/regulations/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 under Executive Order 12866 (58 FR 51735, October 4, 1993) and was therefore not submitted to the Office of Management and Budget (OMB) for review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).

B. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA, 44 U.S.C. 3501 *et seq.* OMB has previously approved the information collection activities contained in the existing regulations and has assigned OMB control numbers 2070–0038 (EPA ICR No. 2702.01) and the information collection activities associated with export notifications are already approved under OMB control number 2070–0030 (EPA ICR No. 0795.16). If an entity were to submit a SNUN to the Agency, the annual burden is estimated to be less than 100 hours per response, and the estimated burden for export notifications is less than 1.5 hours per notification. In both cases, burden is estimated to be reduced for submitters who have already registered to use the electronic submission system.

C. Regulatory Flexibility Act (RFA)

I certify this action will not have a significant economic impact on a substantial number of small entities under the RFA, 5 U.S.C. 601 *et seq.* In making this determination, EPA concludes that the impact of concern is any significant adverse economic impact on small entities, and the Agency is certifying that this proposed rule will not have a significant economic impact on a substantial number of small entities.

A SNUR applies to any person (including small or large entities) who intends to engage in any activity described in the proposed rule as a ''significant new use.'' By definition of the word ''new'' and based on all information currently available to EPA, it appears that no small or large entities presently engage in such activities. Since this SNUR will require a person who intends to engage in such activity in the future to first notify EPA by submitting a SNUN, no economic impact will occur unless someone files a SNUN to pursue a significant new use in the future or forgoes profits by avoiding or delaying the significant new use. Although some small entities may decide to conduct such activities in the future, EPA cannot presently determine how many, if any, there may be. However, EPA's experience to date is that, in response to the promulgation of SNURs covering over 1,000 chemical substances, the Agency receives only a handful of notices per year (Ref. 2). EPA believes the cost of submitting a SNUN is relatively small compared to the cost of developing and marketing a chemical new to a firm or marketing a new use of the chemical and that the requirement to submit a SNUN generally does not have a significant economic impact.

Therefore, EPA believes that the potential economic impact of complying with this proposed SNUR is not expected to be significant or adversely impact a substantial number of small entities. In a SNUR that published as a final rule on August 8, 1997 (62 FR 42690), the Agency presented its general determination that proposed and final SNURs are not expected to have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act (UMRA)

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

E. Executive Order 13132: Federalism

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

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

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

Executive Order 13175 does not apply to this action.

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

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997), as applying only to those regulatory actions that concern environmental health or safety risks that the Agency 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 a ''significant energy action'' as defined in Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not likely to have a significant adverse effect on the supply, distribution or use of energy and has not otherwise been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action.

I. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve any technical standards under section 12(d) of NTTAA, 15 U.S.C. 272 note.

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/or Indigenous peoples) and low-income populations.

EPA believes that the human health and environmental conditions that exist prior to this action do not result in disproportionate and adverse effects on people of color, low-income populations, and/or Indigenous peoples because the Agency believes that the inactive PFAS included in this action are no longer being manufactured (including imported) or processed for any uses in the United States.

EPA believes that it is not practicable to assess whether this action is likely to result in new disproportionate and adverse effects on people of color, low-income populations and/or Indigenous peoples because the Agency is not able anticipate which chemical substances and uses, if any, will be submitted for a significant new use notice under this action.

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: January 17, 2023.

Michal Freedhoff,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

Therefore, for the reasons set forth in the preamble, it is proposed that 40 CFR chapter I be amended as follows:

PART 721—SIGNIFICANT NEW USES OF CHEMICAL SUBSTANCES

■ 1. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

■ 2. Add § 721.11777 to subpart E to read as follows:

§ 721.11777 Per- and Poly-fluoroalkyl chemical substances designated as inactive on the TSCA Inventory.

(a) *Definitions.* The definitions in § 721.3 apply to this section.

(b) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substances identified in paragraphs (b)(1)(i) through (iii) of this section, designated as inactive on the TSCA Chemical Substance Inventory as of the date of publication of this proposed rule, are subject to reporting under this section for the significant new uses described in paragraph (b)(2) of this section.

(i) R-(CF2)-CF(R′)R″, where both the CF2 and CF moieties are saturated carbons;

(ii) R-CF2OCF2-R′, where R and R′ can either be F, O, or saturated carbons; and

(iii) CF3C(CF3)R′R″, where R′ and R″ can either be F or saturated carbons.

(2) The significant new uses for the chemical substances identified in paragraph (b)(1) of this section are: manufacture (including import) or processing for any use.

(c) *Chemical substances not subject to reporting.* The chemical substances already subject to a rule under this part, including § 721.9582, and § 721.10536, are not subject to reporting under this section.

(d) *Specific requirements.* The provisions of subpart A of this part apply to this section.

[FR Doc. 2023–01156 Filed 1–25–23; 8:45 am]

BILLING CODE 6560–50–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

45 CFR Part 4556

RIN 3045–AA70; 3045–AA79

Volunteers in Service to America

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) is proposing to update its regulations to reflect current position titles and roles, define the statutory phrase ''direct cost of supporting volunteers,'' revise provisions that no longer reflect AmeriCorps' practice, and make technical changes. The position titles must be updated because VISTA now operates through Regional Administrators, rather than State Program Directors. The statutory phrase interpretation is necessary because under its authorizing statute, AmeriCorps may not provide a non-competitive grant for the ''direct cost of supporting volunteers'' to projects less than one year old. This proposed rule would define the phrase to include those funds paid directly for the support of VISTA volunteers, such as living allowances, travel reimbursements, and end-of-service benefits, but not funds paid for the support of the VISTA sponsor organization. This change would make VISTA projects more accessible to organizations in underserved communities that may not have otherwise been able to secure the resources to devote a supervisor or certain administrative costs to a new project.

DATES: Written comments must be submitted by March 27, 2023.

ADDRESSES: You may send your comments electronically through the Federal government's one-stop rulemaking website at *www.regulations.gov.* You may also send your comments to Elizabeth Appel, Associate General Counsel, at *eappel@cns.gov* or by mail to AmeriCorps, 250 E Street SW, Washington, DC 20525.

FOR FURTHER INFORMATION CONTACT: Carly Bruder, Acting Director, AmeriCorps VISTA, at *cbruder@cns.gov,* (202) 606–6871, or by mail to

AmeriCorps, 250 E Street SW, Washington, DC 20525.

SUPPLEMENTARY INFORMATION:

I. Background

AmeriCorps VISTA is a national service program designed to provide needed resources to nonprofit organizations and public agencies to strengthen and supplement efforts to address poverty and poverty-related problems in the United States and certain U.S. territories. The VISTA program provides opportunities for individuals to join as volunteers (''members'') who perform, on a full-time basis, service with an organization (''sponsor'') to create, strengthen, or expand initiatives designed to assist individuals and communities in addressing poverty. Each year, the AmeriCorps VISTA program awards non-grant (*i.e.,* VISTA member, leader, or summer associate positions) and grant resources to sponsors. A sponsor is responsible for designing and implementing the VISTA project and recruiting, supervising, and providing necessary administrative support (*e.g.,* supplies and equipment, in-service training and development, mileage reimbursement) to VISTA members to complete the goals of the project. Among its grants, AmeriCorps VISTA offers non-competitive grants to fund sponsor organizations' costs to supply, among other items, supervision for a VISTA project.

II. Overview of Proposed Rule

The Domestic Volunteer Service Act of 1973 (DVSA) states that AmeriCorps may not provide a grant for the ''direct cost of supporting volunteers'' to any project that is less than one year old unless that grant is awarded competitively. *See* 42 U.S.C. 4960(b). Under this statutory provision, AmeriCorps may provide non-competitive support grants only to projects that have been operating for a year or more, or to projects less than one year old if the grant is for something other than the ''direct cost of supporting volunteers.''

This proposed rule would define ''direct cost of supporting volunteers'' to include only the funds paid directly for the support of VISTA members, such as living allowances, travel reimbursements, and end-of-service benefits. With this definition, the proposed rule would make clear that AmeriCorps can provide noncompetitive grants to support a VISTA sponsor organization, including funds to support the sponsor organization's supervisor, for a VISTA project that is less than one year old. Over the past few years, sponsors with projects less than a year old have not been able to access noncompetitive support grants because of AmeriCorps' previous broad interpretation of the phrase ''direct cost of supporting volunteers'' to include not only the costs of supporting members but also the costs of supporting the sponsor's supervisor. The proposed rule would make VISTA projects more accessible to sponsor organizations in underserved communities who may not have otherwise been able to secure the resources to devote a supervisor or certain administrative costs to a new project. The limitations on VISTA sponsors receiving funding for the direct cost of supporting volunteers are set out in proposed § 2556.180.

This proposed rule would also update position titles and roles to reflect current agency organization, revise provisions that no longer reflect current practice, and make technical changes. Specifically, the proposed rule would:

- In the definitions section, at § 2556.5:
  - Delete the definitions of ''Area Manager'' and ''State Program Director''
  - Add definitions for ''Deputy Regional Administrator,'' ''Portfolio Manager,'' ''Regional Administrator,'' ''Senior Portfolio Manager,'' ''VISTA Case Manager,'' and ''VMSU Director.''
  - Replace the definition of ''CNCS'' with a definition of ''AmeriCorps'' to reflect that the Agency operates as AmeriCorps.
- In § 2556.200, clarify that both the age and citizenship status of the individual entering VISTA service are determined at the time they take their oath or affirmation of service, and delete ''lawful permanent resident'' as an example of individuals legally residing in a State because there may be additional categories of individuals legally residing in a State that are not technically ''lawful permanent residents'' (*e.g.,* refugees prior to obtaining a green card).
- In § 2556.305(c), delete the requirement for VISTA members to actively seek opportunities to engage with the low-income community because the nature of modern service requirements may not provide for those opportunities, and delete ''without regard to regular working hours'' because paragraph (a) already addresses that point.
- In § 2556.320(d) and § 2556.505(b)(2), replace reference to a ''baggage allowance'' benefit to transport personal effects to the project site with reference to a ''location travel allowance'' to offset the cost of relocating from the home of record to the project site, to more accurately describe what the allowance is provided for.
- In § 2556.350(b)(3), add ''the content of'' to clarify that matters excluded from the VISTA program grievance procedures include those related to the content of any law, published rule, regulation, policy or procedure.
- In § 2556.500, delete paragraph (a), which provides that the State Program Director invites sponsors in the State to apply for positions for individuals to serve as summer associates at the sponsor's VISTA project, because the current process does not include a separate invitation outside of the annual award-making process.
- In § 2556.610, remove the list of specific components of a sponsor recommendation, to allow sponsors greater flexibility in drafting their recommendations, and instead clarify the criteria that AmeriCorps relies upon when selecting leaders as including consideration of the individual's experience, special skills, and leadership.
- Make the following updates to position titles and agency organization:
  - In § 2556.320(i), change ''State Program Director'' to ''VISTA Case Manager'' for the role of determining if a VISTA did not successfully complete a full term of service because of a compelling personal circumstance;
  - In § 2556.360(a), change ''State Program Director'' to ''Deputy Regional Administrator'' for the role of receiving and issuing a determination on a grievance brought by a VISTA;
  - In § 2556.365, change ''Area Manager'' to ''Regional Administrator'' as the official who will receive an appeal of a VISTA grievance, and change ''State Program Director'' to ''Deputy Regional Administrator'';
  - In § 2556.410, change ''State Program Director'' to ''Portfolio Manager'' for handling requests of sponsoring organizations to remove a VISTA member from its project;
  - In § 2556.420(a), (b), and (d), change ''State Program Director'' and ''State Program Director or other CNCS State Office Staff'' to ''AmeriCorps'' generally, to allow the agency to determine and address in policy the appropriate personnel to handle termination for cause proceedings. In paragraphs (c) and (d), change ''State Program Director'' to ''VISTA Case Manager'' to specify that the VISTA Case Manager will be the person who sends a VISTA member a proposal to terminate, and to whom the member addresses any answer to the proposal;

○ In § 2556.425(a), change ''State Program Director'' to ''the appropriate AmeriCorps Director'' as the issuer of a termination decision and change ''appropriate Area Manager'' to ''VMSU Director'' as the official to whom a VISTA may submit an appeal of the termination decision, and in paragraph (d) change ''Area Manager'' to ''VMSU Director'' as the official issuing a written appeal determination.

○ In § 2556.625(k), change ''State Office'' to ''Regional Office.''

• Throughout the regulation:

○ Change ''CNCS'' to ''AmeriCorps'' to reflect that the Agency operates as AmeriCorps;

○ Change ''he or she'' and ''his or her'' to gender-neutral ''they'' and ''their'';

○ Change ''shall'' to ''will'' or ''must'' or other language as appropriate to more clearly convey in plain language what is required and allowed, and change ''shall not'' to ''may not'' in accordance with plain language guidelines in §§ 2556.105(b), 2556.120(a)–(b), 2556.125(b), 2556.130(a)–(e), 2556.135(b)–(e), 2556.140(c)–(f), 2556.145, 2556.150(f), 2556.155(d)–(e), 2556.160(a)–(b), 2556.165, 2556.170(d)(2), 2556.175(a), 2556.305(c), 2556.320(i)–(j), 2556.345(b)–(c), 2556.360(a)(3) and (b)(3), 2556.365(e), 2556.410(c), 2556.420(c)–(d), 2556.425(b) and (d), 2556.610(c), 2556.625(b), 2556.760(a)–(b), 2556.770(b), and 2556.780(a)–(b).

Other non-substantive changes were made to the text throughout to improve readability. Together, these changes are easiest to see in their context, with a reprinting of the entire part 2556.

III. Regulatory Analyses

A. Executive Orders 12866 and 13563

Executive Orders (E.O.) 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 does not anticipate that this will be a significant regulatory action.

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

Under the PRA, an agency may not conduct or sponsor a collection of information unless the collections of information display valid control numbers. This proposed rule does not affect any information collections.

F. Executive Order 13132, Federalism

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 our consultation policy and the criteria in E.O. 13175 and determined that this proposed 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 2556

Grant programs—social programs, Volunteers.

For the reasons stated in the preamble, the Corporation for National and Community Service is proposing to amend title 45 of the Code of Federal Regulations by revising part 2556 to read as follows:

PART 2556—VOLUNTEERS IN SERVICE TO AMERICA

Subpart A—General Information

Subpart B—VISTA Sponsors

Subpart C—VISTA Members

Subpart D—Terms, Protections, and Benefits of VISTA Members

Subpart E—Termination for Cause Procedures

Subpart F—Summer Associates

Subpart G—VISTA Leaders

Subpart H—Restrictions and Prohibitions on Political Activities and Lobbying

Authority: 42 U.S.C. 4951–4953; 5 CFR part 734, 42 U.S.C. 4953(a), (f), 4954(b), (e), 4955(b), 4956, 5043(a)–(c), 5044(a)–(c), (e), 5046, 5052, 5056, and 5057; 42 U.S.C. 12651b (g)(10); 42 U.S.C. 12651c(c); E.O. 13279, 67 FR 77141, 3 CFR, 2002 Comp., p. 2156, 42 U.S.C. 4954(a), (b), (d), 4955, 5044(e), 5055, and 5059; 42 U.S.C. 12602(c), 42 U.S.C. 4953(b), (c), (f), and 5044(e).

Subpart A—General Information

§ 2556.1 What is the purpose of the VISTA program?

(a) The purpose of the VISTA program is to strengthen and supplement efforts to eliminate and alleviate poverty and poverty-related problems throughout the United States and certain U.S.

territories. To effect this purpose, the VISTA program encourages and enables individuals from all walks of life to join VISTA to perform, on a full-time basis, meaningful and constructive service to assist in the solution of poverty and poverty-related problems and secure opportunities for self-advancement of persons afflicted by such problems.

(b) The VISTA program objectives are to:

(1) Generate private sector resources;

(2) Encourage volunteer service at the local level;

(3) Support efforts by local agencies and community organizations to achieve long-term sustainability of projects; and

(4) Strengthen local agencies and community organizations to carry out the purpose of the VISTA program.

§ 2556.3 Who should read this part?

This part may be of interest to:

(a) Private nonprofit organizations, public nonprofit organizations, State government agencies, local government agencies, Federal agencies, and Tribal government agencies who are participating in the VISTA program as sponsors, or who are interested in participating in the VISTA program as sponsors.

(b) Individuals 18 and older who are serving as a VISTA, or who are interested in serving as a VISTA.

§ 2556.5 What definitions apply in this part?

Act or *DVSA* means the Domestic Volunteer Service Act of 1973, as amended, Public Law 93–113 (42 U.S.C. 4951 *et seq.*).

Alternative oath or *affirmation* means a pledge of VISTA service taken by an individual who legally resides within a State, but who is not a citizen or national of the United States, upon that individual's enrollment into the VISTA program.

AmeriCorps means the Corporation for National and Community Service, established pursuant to section 191 of the National and Community Service Act of 1990, as amended, 42 U.S.C. 12651, which operates as AmeriCorps.

Applicant for VISTA service means an individual who is in the process of completing, or has completed, an application for VISTA service as prescribed by AmeriCorps, but who has been not been approved by AmeriCorps to be a candidate.

Application for VISTA service means the materials prescribed by AmeriCorps to determine an individual's eligibility and suitability for VISTA service.

Assistance means VISTAs, leaders, or summer associates. ''Assistance'' also means technical assistance or training of VISTAs, leaders, summer associates, candidates, sponsors, or supervisors that are provided from funds appropriated by Congress for the purpose of supporting activities under the DVSA. ''Assistance'' also means grant funds.

Candidate, when used in the context of an individual who has applied for VISTA service, means an individual whose application for VISTA service has been approved by AmeriCorps, but who has not taken an oath, alternative oath, or affirmation to serve in the VISTA program. Candidates may include those who were enrolled in the VISTA program at a prior time.

Cost share means when an entity, such as a VISTA sponsor, reimburses AmeriCorps part or all of the expenses associated with the operation of a VISTA project, such as the costs for one or more VISTAs, leaders, or summer associates placed in a VISTA project.

Deputy Regional Administrator means an AmeriCorps official who reports directly to the Regional Administrator and oversees the day-to-day regional operations to ensure the quality of program design and delivery.

Education award or *Segal AmeriCorps Education Award* means an end-of-service monetary benefit from AmeriCorps' National Service Trust that is directed to designated educational institutions and is awarded to certain qualifying VISTAs who successfully complete an established term of VISTA service.

Enroll, enrolled, or *enrollment,* when used in the context of VISTA service, refers to the status of an individual admitted to serve in the VISTA program. The enrollment period commences when the candidate takes the Oath to serve in the VISTA program and ends upon their termination from a term of service in the VISTA program. The enrollment period may begin on a date earlier than the first day of a service assignment of an enrolled VISTA member.

Full-time, when used in the context of VISTA service, means service in which a VISTA, leader, or summer associate remains available for service without regard to regular working hours.

Leader, a leader, or *a VISTA leader* means a VISTA member who is enrolled for full-time VISTA service and who is also subject to the terms of subpart G of this part.

Living allowance or *living allowance payment* means a monetary benefit paid for subsistence purposes to a VISTA member during VISTA service.

Memorandum of Agreement means a written agreement between AmeriCorps and a sponsor regarding the terms of the sponsor's involvement and responsibilities in the VISTA program.

Nonpartisan election means:

(1) An election in which none of the candidates for nomination or election represents a political party for which candidates for Presidential elector received votes in the last preceding election at which Presidential electors were selected; or

(2) An election involving a question or issue which is not specifically identified with a political party, such as a constitutional amendment, referendum, approval of a municipal ordinance, or any question or issue of a similar character.

Oath means an avowal to VISTA service, taken in accordance with 5 U.S.C. 3331, by an individual who is a U.S. citizen or national. The taking of the Oath effects an individual's enrollment into the VISTA program.

On-duty or *during service time* means when a VISTA is either performing VISTA service or scheduled to do so.

Portfolio Manager means an AmeriCorps official who reports to a Senior Portfolio Manager and serves as a technical advisor to current and prospective grantees and sponsors for effective, timely, and compliant administration of grant awards.

Project or *VISTA project* means a set of VISTA activities operated and overseen by, and the responsibility of, a sponsor, and assisted under this part to realize the goals of title I of the DVSA.

Project applicant or *VISTA project applicant* means an entity that submits an application to AmeriCorps to operate, oversee, and be responsible for a VISTA project.

Project application or *VISTA project application* means the application materials prescribed by AmeriCorps to determine an applying entity's eligibility and suitability to operate, oversee, and be responsible for, a VISTA project.

Project director or *VISTA project director* means a staff person, of legal age, of the sponsor, who has been assigned by the sponsor the overall responsibility for management of the VISTA project.

Regional Administrator means an AmeriCorps official who is the head of a designated region for AmeriCorps and responsible for driving, managing, and overseeing the strategic direction and operations of the Regional Office.

Senior Portfolio Manager means an AmeriCorps official who reports to a Deputy Regional Administrator and supervises a team of portfolio managers and manages an advanced portfolio of grants and program development.

Sponsor, VISTA sponsor, or *VISTA project sponsor* means a public agency or private non-profit organization that receives assistance under title I of the DVSA and is responsible for operating and overseeing a VISTA project. A public agency may be a Federal, State, local or Tribal Government.

State, when used as a noun, means one of the several States in the United States of America, District of Columbia, Virgin Islands, Puerto Rico, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

Stipend or *end-of-service stipend* means an end-of-service lump-sum monetary benefit from AmeriCorps that is awarded to certain qualifying VISTAs who successfully complete an established term of VISTA service.

Subrecipient means a public agency or private non-profit organization that enters into an agreement with a VISTA sponsor to receive one or more VISTAs, and to carry out a set of activities, assisted under this part, to realize the goals of title I of the DVSA. A public agency may be a Federal, State, local or Tribal Government.

Summer associate means a VISTA member who is enrolled for VISTA service, during a period between May 1 and September 15, and who is also subject to the terms of subpart H of this part. A summer associate must be available to provide continuous full-time service for a period of at least eight weeks and a maximum of ten weeks.

Supervisor or *VISTA Supervisor* means a staff member, of legal age, of the sponsor or a subrecipient, who has been assigned by the sponsor or the subrecipient the responsibility for day-to-day oversight of one or more VISTAs.

Tribe means any Indian tribe, band, nation, or other organized group or community, including any Alaskan native village or regional village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, which is recognized by the United States or the State in which it resides as eligible for special programs and services provided to Indians because of their status as Indians.

VISTA Case Manager means an AmeriCorps official who reports to the VMSU Director and manages service status changes of VISTA members (*e.g.,* removals, terminations, and transfers).

VISTA member, a VISTA, or *the VISTA* means an individual enrolled full-time in the VISTA program, as authorized under title I of the DVSA.

VISTA program means the Federal Government program named Volunteers in Service to America and authorized under title I of the Domestic Volunteer Service Act of 1973, as amended, 42 U.S.C. 4950 *et seq.*

VISTA service means VISTA service activities performed by a VISTA member while enrolled in the VISTA program.

VMSU Director means the AmeriCorps official who is Director of the VISTA Member Support Unit and manages daily operations of the VMSU to provide services to potential, current, and former VISTA members.

§ 2556.7 Are waivers of the regulations in this part allowed?

Upon a determination of good cause, the Chief Executive Officer of AmeriCorps may, subject to statutory limitations, waive any provisions of this part.

Subpart B—VISTA Sponsors

§ 2556.100 Which entities are eligible to apply to become VISTA sponsors?

The following types of entities are eligible to apply to become VISTA sponsors and thereby undertake projects in the U.S. and certain U.S. territories:

(a) Private nonprofit organizations.

(b) Public nonprofit organizations.

(c) State government or State government agencies.

(d) Local government or local government agencies.

(e) Tribal government or Tribal government agencies.

§ 2556.105 Which entities are prohibited from being VISTA sponsors?

(a) An entity is prohibited from being a VISTA sponsor or from otherwise receiving VISTA assistance if a principal purpose or activity of the entity includes any of the following:

(1) *Electoral activities.* Any activity designed to influence the outcome of elections to any public office, such as actively campaigning for or against, or supporting, candidates for public office; raising, soliciting, or collecting funds for candidates for public office; or preparing, distributing, providing funds for campaign literature for candidates, including leaflets, pamphlets, and material designed for print or electronic media.

(2) *Voter registration activities.* Any voter registration activity, such as providing transportation of individuals to voter registration sites; providing assistance to individuals in the process of registering to vote, including determinations of eligibility; or disseminating official voter registration material.

(3) *Transportation to the polls.* Providing voters or prospective voters with transportation to the polls or raising, soliciting, or collecting funds for such activities.

(b) Any organization that, subsequent to the receipt of VISTA assistance, makes as one of its principal purposes or activities any of the activities described in paragraph (a) of this section is subject to the procedures in §§ 2556.125 through 2556.145.

§ 2556.110 What VISTA assistance is available to a sponsor?

(a) A sponsor may be approved for one or more VISTA positions.

(b) A sponsor, upon review and approval by AmeriCorps to establish a leader position or positions, and in accordance with criteria set forth at subpart G of this part, may be approved for one or more leader positions.

(c) A sponsor, upon approval by AmeriCorps to establish a summer associate position or positions, and in accordance with criteria set forth at subpart F of this part, may be approved for one or more summer associate positions.

(d) A sponsor may be eligible to receive certain grant assistance under the terms determined and prescribed by AmeriCorps.

(e) A sponsor may receive training and technical assistance related to carrying out the purposes of title I of the DVSA.

§ 2556.115 Is a VISTA sponsor required to provide a cash or in-kind match?

(a) A sponsor is not required to provide a cash match for any of the assistance listed in § 2556.110.

(b) A sponsor must provide supervision, workspace, service-related transportation, and any other materials necessary to operate and complete the VISTA project and support the VISTA.

§ 2556.120 How does a VISTA sponsor ensure the participation of people in the communities to be served?

(a) To the maximum extent practicable, the people of the communities to be served by VISTA members must participate in planning, developing, and implementing programs.

(b) The sponsor must articulate in its project application how it will engage or continue to engage relevant communities in the development and implementation of programs.

§ 2556.125 May AmeriCorps deny or reduce VISTA assistance to an existing VISTA project?

(a) AmeriCorps may deny or reduce VISTA assistance where a denial or reduction is based on:

(1) Legislative requirement;

(2) Availability of funding;

(3) Failure to comply with applicable term(s) or condition(s) of a contract, grant agreement, or an applicable Memorandum of Agreement;

(4) Ineffective management of AmeriCorps resources;

(5) Substantial failure to comply with AmeriCorps policy and overall objectives under a contract, grant agreement, or applicable Memorandum of Agreement; or

(6) General policy.

(b) In instances where the basis for denial or reduction of VISTA assistance may also be the basis for the suspension or termination of a VISTA project under this subpart, AmeriCorps is not limited to the use of this section to the exclusion of the procedures for suspension or termination in this subpart.

§ 2556.130 What is the procedure for denial or reduction of VISTA assistance to an existing VISTA project?

(a) AmeriCorps will notify the sponsor in writing, at least 75 calendar days before the anticipated denial or reduction of VISTA assistance, that AmeriCorps proposes to deny or reduce VISTA assistance. AmeriCorps' written notice will state the reasons for the decision to deny or reduce assistance and will provide an opportunity period for the sponsor to respond to the merits of the proposed decision. AmeriCorps retains sole authority to make the final determination as to whether the VISTA assistance at issue will be denied or reduced, as appropriate.

(b) Where AmeriCorps' notice of proposed decision is based upon a specific charge of the sponsor's failure to comply with the applicable term(s) or condition(s) of a contract, grant agreement, or an applicable Memorandum of Agreement, the notice will offer the sponsor an opportunity period to respond in writing to the notice, with any affidavits or other supporting documentation, and to request an informal hearing before a mutually agreed-upon impartial hearing officer. The authority of such a hearing officer will be limited to conducting the hearing and offering recommendations to AmeriCorps. Regardless of whether or not an informal hearing takes place, AmeriCorps will retain full authority to make the final determination as to whether the VISTA assistance is denied or reduced, as appropriate.

(c) If the recipient requests an informal hearing, in accordance with paragraph (b) of this section, such hearing will be held on a date specified by AmeriCorps and held at a location convenient to the sponsor.

(d) If AmeriCorps' proposed decision is based on ineffective management of resources, or on the substantial failure to comply with AmeriCorps policy and overall objectives under a contract, grant agreement, or an applicable Memorandum of Agreement, AmeriCorps will inform the sponsor in the notice of proposed decision of the opportunity to show cause why VISTA assistance should not be denied or reduced, as appropriate. AmeriCorps retains full authority to make the final determination whether the VISTA assistance at issue will be denied or reduced, as appropriate.

(e) The recipient will be informed of AmeriCorps' final determination on whether the VISTA assistance at issue is denied or reduced, and the basis for the determination.

(f) The procedure in this section does not apply to a denial or reduction of VISTA assistance based on legislative requirements, availability of funding, or on general policy.

§ 2556.135 What is suspension and when may AmeriCorps suspend a VISTA project?

(a) Suspension is any action by AmeriCorps that temporarily suspends or curtails assistance, in whole or in part, to all or any part of a VISTA project, prior to the time that the project term is concluded. Suspension does not include the denial or reduction of new or additional VISTA assistance.

(b) In an emergency situation for up to 30 consecutive days, AmeriCorps may suspend assistance to a sponsor, in whole or in part, for the sponsor's material failure or threatened material failure to comply with an applicable term(s) or condition(s) of the DVSA, the regulations in this part, VISTA program policy, or an applicable Memorandum of Agreement. Such suspension in an emergency situation will be pursuant to notice and opportunity to show cause why assistance should not be suspended.

(c) To initiate suspension proceedings, AmeriCorps will notify the sponsor in writing that AmeriCorps is suspending assistance in whole or in part. The written notice will contain the following:

(1) The grounds for the suspension and the effective date of the suspension;

(2) The sponsor's right to submit written material in response to the suspension to show why the VISTA assistance should not be suspended, or should be reinstated, as appropriate; and

(3) The opportunity to adequately correct the deficiency, or deficiencies, which led to AmeriCorps' notice of suspension.

(d) In deciding whether to continue or lift the suspension, as appropriate, AmeriCorps will consider any timely material presented in writing, any material presented during the course of any informal meeting, as well as any showing that the sponsor has adequately corrected the deficiency which led to the initiation of suspension.

(e) During the period of suspension of a sponsor, no new expenditures, if applicable, may be made by the sponsor's VISTA project at issue and no new obligations may be incurred in connection with the VISTA project at issue except as specifically authorized in writing by AmeriCorps.

(f) AmeriCorps may, at its discretion, modify the terms, conditions, and nature of the suspension or rescind the suspension action at any time, on its own initiative or upon a showing that the sponsor has adequately corrected the deficiency or deficiencies which led to the suspension and that repetition is not foreseeable.

§ 2556.140 What is termination and when may AmeriCorps terminate a VISTA project?

(a) Termination means any action by AmeriCorps that permanently terminates or curtails assistance to all or any part of a sponsor's VISTA project prior to the time that the project term is concluded.

(b) AmeriCorps may terminate assistance to a sponsor in whole or in part for the sponsor's material failure to comply with an applicable term(s) or condition(s) of the DVSA, the regulations in this part, VISTA program policy, or an applicable Memorandum of Agreement.

(c) To initiate termination proceedings, AmeriCorps will notify the sponsor in writing that AmeriCorps is proposing to terminate assistance in whole or in part. The written notice will contain the following:

(1) A description of the VISTA assistance proposed for termination, the grounds that warrant such proposed termination, and the proposed date of effective termination;

(2) Instructions regarding the sponsor's opportunity, within 21 calendar days from the date the notice is issued, to respond in writing to the merits of the proposed termination and their right to request a full and fair hearing before a mutually agreed-upon impartial hearing officer; and

(3) Invitation of voluntary action by the sponsor to adequately correct the deficiency or deficiencies which led to AmeriCorps' notice of proposed termination.

(d) In deciding whether to effect termination of VISTA assistance, AmeriCorps will consider any relevant, timely material presented in writing; any relevant material presented during the course of any full and fair hearing; and any showing that the sponsor has adequately corrected the deficiency which led to the initiation of termination proceedings.

(e) Regardless of whether or not a full and fair hearing takes place, AmeriCorps retains all authority to make the final determination as to whether termination of VISTA assistance is appropriate.

(f) The sponsor will be informed of AmeriCorps' final determination on the proposed termination of VISTA assistance, and the basis or bases for the determination.

(g) AmeriCorps may, at its discretion, modify the terms, conditions, and nature of a termination action or rescind a termination action at any time on its own initiative, or upon a showing that the sponsor has adequately corrected the deficiency which led to the termination or the initiation of termination proceedings, and that repetition is not threatened.

§ 2556.145 May AmeriCorps pursue other remedies against a VISTA project for a sponsor's material failure to comply with any other requirement not set forth in this subpart?

The procedures established by this subpart do not preclude AmeriCorps from pursuing any other remedies authorized by law.

§ 2556.150 What activities are VISTA members not permitted to perform as part of service?

(a) A VISTA may not perform any activities in the project application that do not correspond with the purpose of the VISTA program, as described in § 2556.1, or that the Director has otherwise prohibited.

(b) A VISTA may not perform services or duties as a VISTA member that would otherwise be performed by employed workers or other volunteers (not including participants under the DVSA and the National and Community Service Act of 1990, as amended).

(c) A VISTA may not perform any services or duties, or engage in activities as a VISTA member, that supplant the hiring of or result in the displacement of employed workers or other volunteers (not including participants under the DVSA or the National and Community Service Act of 1990, as amended).

(d) A VISTA may not perform any services or duties, or engage in activities as a VISTA member, which impair existing contracts for service.

(e) The requirements of paragraphs (b) through (d) of this section do not apply when the sponsor requires the service in order to avoid or relieve suffering threatened by, or resulting from, a disaster, civil disturbance, terrorism, or war.

(f) A sponsor or subrecipient may not request or receive any compensation from a VISTA, from a beneficiary of VISTA project services, or any other source for services of a VISTA.

§ 2556.155 May a sponsor manage a VISTA project through a subrecipient?

(a) A sponsor may carry out a VISTA project through one or more subrecipients that meet the eligibility criteria of § 2556.100.

(b) The sponsor must enter into a subrecipient agreement with each subrecipient. A subrecipient agreement must have at least the following elements:

(1) A project plan to be implemented by the subrecipient;

(2) Records to be kept and reports to be submitted;

(3) Responsibilities of the parties and other program requirements; and

(4) Suspension and termination policies and procedures.

(c) The sponsor retains the responsibility for compliance with a Memorandum of Agreement; the applicable regulations in this Part; and all applicable policies, procedures, and guidance issued by AmeriCorps regarding the VISTA program.

(d) A sponsor may not request or receive any compensation from a subrecipient for services performed by a VISTA.

(e) A sponsor may not receive payment from, or on behalf of, the subrecipient for costs of the VISTA assistance, except in two limited circumstances:

(1) For reasonable and actual costs incurred by the sponsor directly related to the subrecipient's participation in a VISTA project; and

(2) For any cost share related to a VISTA placed with the subrecipient in the VISTA project.

§ 2556.160 What are the sponsor's requirements for cost share projects?

(a) A sponsor must enter into a written agreement for cost share as prescribed by AmeriCorps.

(b) A sponsor must make timely cost share payments as prescribed by AmeriCorps and applicable Federal law and regulations.

(c) In addition to other sources of funds, a sponsor may use funds from Federal, State, or local Government agencies, provided the requirements of those agencies and their programs are met.

(d) Subject to review and approval by AmeriCorps, AmeriCorps may enter into an agreement with another entity to receive and use funds to make cost share payments on behalf of the sponsor.

§ 2556.165 What Fair Labor Standards apply to VISTA sponsors and subrecipients?

All sponsors and subrecipients that employ laborers and mechanics for construction, alteration, or repair of facilities must pay wages at prevailing rates as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended, 40 U.S.C. 276a.

§ 2556.170 What nondiscrimination requirements apply to sponsors and subrecipients?

(a) An individual with responsibility for the operation of a project that receives AmeriCorps assistance must not discriminate against a participant in, or member of the staff of, such project on the basis of the participant or staff member's race, color, national origin, sex, age, or political affiliation, or on the basis of disability, if the participant or staff member is a qualified individual with a disability.

(b) Any AmeriCorps assistance constitutes Federal financial assistance for purposes of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*), title IX of the Education Amendments of 1972 (20 U.S.C. 1681 *et seq.*), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and the Age Discrimination Act of 1975 (42 U.S.C. 6101 *et seq.*), and constitutes Federal financial assistance to an education program or activity for purposes of the Education Amendments of 1972 (20 U.S.C. 1681 *et seq.*).

(c) An individual with responsibility for the operation of a project that receives AmeriCorps assistance may not discriminate on the basis of religion against a participant in such project or a member of the staff of such project who is paid with AmeriCorps funds. This provision does not apply to the employment (with AmeriCorps assistance) of any staff member of an AmeriCorps-supported project who was employed with the organization operating the project on the date the AmeriCorps assistance was awarded.

(d) Sponsors must notify all program participants, staff, applicants, and beneficiaries of:

(1) Their rights under applicable Federal nondiscrimination laws, including relevant provisions of the national service legislation and implementing regulations; and

(2) The procedure for filing a discrimination complaint. No sponsor or subrecipient, or sponsor or subrecipient employee, or individual with responsibility for the implementation or operation of a sponsor or a subrecipient, may discriminate against a VISTA on the basis of race, color, national origin, gender, age, religion, or political affiliation. No sponsor or subrecipient, or sponsor or subrecipient employee, or individual with responsibility for the implementation or operation of a sponsor or a subrecipient, may discriminate against a VISTA on the basis of disability, if the VISTA is a qualified individual with a disability.

§ 2556.175 What limitations are VISTA sponsors subject to regarding religious activities?

(a) A VISTA may not give religious instruction, conduct worship services, or engage in any form of proselytizing as part of their duties.

(b) A sponsor or subrecipient may retain its independence and may continue to carry out its mission, including the definition, development, practice, and expression of its religious beliefs, provided that it does not use any AmeriCorps assistance, including the services of any VISTA or VISTA assistance, to support any inherently religious activities, such as worship, religious instruction, or proselytizing, as part of the programs or services assisted by the VISTA program. If a VISTA sponsor or subrecipient conducts such inherently religious activities, the activities must be offered separately, in time or location, from the programs or services assisted under this Part by the VISTA program.

§ 2556.180 What are the limitations on VISTA sponsors receiving funding for the direct cost of supporting volunteers?

(a) AmeriCorps will not obligate funding for the direct cost of supporting volunteers that is:

(1) More than 30 percent of VISTA funds appropriated in any fiscal year; or

(2) For a new project that was not selected through a competitive process.

(b) The ''direct cost of supporting volunteers'' includes only those funds that are paid directly to VISTA members, leaders, or summer associates, such as: living allowance; travel reimbursements, including the Settling In Allowance; End of Service Benefits, including the cash stipend; and other expenses paid directly to the member, leader, or summer associate, as determined by the VISTA Director.

Subpart C—VISTA Members

§ 2556.200 Who may serve as a VISTA?

An individual may serve as a VISTA if all the following requirements are met as of the date the individual takes the oath or affirmation, as appropriate, to enter VISTA service:

(a) The individual is at least eighteen years of age. There is no upper age limit.

(b) The individual is a United States citizen or national, or is legally residing within a State.

§ 2556.205 What commitments and agreements must an individual make to serve in the VISTA program?

(a) To the maximum extent practicable, the individual must make a full-time commitment to remain available for service without regard to regular working hours, at all times during their period of service, except for authorized periods of leave.

(b) To the maximum extent practicable, the individual must make a full-time personal commitment to alleviate poverty and poverty-related problems, and to live among and at the economic level of the low-income people served by the project.

(c) The individual's service cannot be used to satisfy service requirements of parole, probation, or community service prescribed by the criminal justice system.

(d) A VISTA candidate or member agrees to undergo an investigation into their criminal history or background as a condition of enrollment, or continued enrollment, in the VISTA program.

§ 2556.210 Who reviews and approves an application for VISTA service?

AmeriCorps has the final authority to approve or deny applications for VISTA service.

Subpart D—Terms, Protections, and Benefits of VISTA Members

§ 2556.300 Is a VISTA considered a Federal employee and is a VISTA considered an employee of the sponsor?

(a) Except for the purposes listed here, a VISTA is not considered an employee of the Federal Government. A VISTA is considered a Federal employee only for the following purposes:

(1) Federal Tort Claims Act—28 U.S.C. 1346(b); 28 U.S.C. 2671–2680;

(2) Federal Employees' Compensation Act—5 U.S.C. chapter 81, subchapter 1;

(3) Hatch Act—5 U.S.C. chapter 73, subchapter III;

(4) Internal Revenue Service Code—26 U.S.C. 1 *et seq.;* and

(5) Title II of the Social Security Act—42 U.S.C. 401 *et seq.*

(b) A VISTA is not considered a Federal employee for any purposes other than those set forth in paragraph (a) of this section.

(c) A VISTA is not covered by Federal or State unemployment compensation related to their enrollment or service in the VISTA program. A VISTA's service is not considered employment for purposes of eligibility for, or receipt of, Federal, State, or any other unemployment compensation.

(d) Monetary allowances, such as living allowances that VISTAs receive during VISTA service, are not considered wages. Monetary allowances, such as living allowances, that VISTAs receive during VISTA service are considered income for such purposes as Federal income tax and Social Security.

(e) A VISTA is not, under any circumstances, considered an employee of the sponsor or subrecipient to which they are assigned to serve. No VISTA is in an employment relationship with the sponsor or subrecipient to which they are assigned. The sponsor is not authorized to make contributions to any State unemployment compensation fund on a VISTA's behalf.

§ 2556.305 What is the duration and scope of service for a VISTA?

(a) To serve as a VISTA, an individual makes a full-time commitment for a minimum of one year, without regard to regular working hours.

(b) A VISTA carries out activities in accordance with the purpose of the VISTA program, as described in § 2556.1.

(c) To the maximum extent practicable, the VISTA must live among and at the economic level of the low-income community served by the project.

(d) A VISTA carries out service activities in conformance with the sponsor's approved project application, including any description of a VISTA assignment as contained in the project application; and in conformance with the purpose of title I of the DVSA. In any case where there is a conflict between the project application and the DVSA, the DVSA takes precedence.

(e) Under no circumstances may an individual be enrolled to serve as a VISTA beyond five years.

§ 2556.310 What are a VISTA sponsor's and AmeriCorps' supervisory responsibilities during a VISTA's term of service?

(a) The VISTA sponsor is responsible for the day-to-day supervision and oversight of the VISTA.

(b) AmeriCorps is responsible for ongoing monitoring and oversight of the VISTA sponsor's project where the

VISTA is assigned. AmeriCorps is responsible for selecting the VISTA, assigning the VISTA to a project, removal of a VISTA from a project, and VISTA separation actions such as termination from the VISTA program.

§ 2556.315 What are terms and conditions for official travel for a VISTA?

(a) AmeriCorps may provide official travel for a VISTA candidate or a VISTA, as appropriate, to attend AmeriCorps-directed activities such as pre-service training, placement at the project site, in-service training events, and return from the project site to the VISTA's or VISTA candidate's home of record.

(b) AmeriCorps must approve all official travel of a VISTA candidate or a VISTA, including the mode of travel.

(c) AmeriCorps may provide for official emergency travel for a VISTA in case of a natural disaster or the critical illness or death of an immediate family member.

§ 2556.320 What benefits may a VISTA receive during VISTA service?

(a) A VISTA receives a living allowance computed on a daily rate. Living allowances vary according to the local cost of living in the project area where the VISTA is assigned.

(b) Subject to a maximum amount, and at the discretion and upon approval of AmeriCorps, a VISTA may receive payment for settling-in expenses, as determined by AmeriCorps.

(c) Subject to a maximum amount, and at the discretion of AmeriCorps, in the event of an emergency (such as theft, fire loss, or special clothing necessitated by severe climate), a VISTA may receive an emergency expense payment in order to resume VISTA service activities, as determined and approved by AmeriCorps.

(d) Subject to a maximum amount, and at the discretion of AmeriCorps, a VISTA may receive a relocation travel allowance to offset the cost of relocating from the home of record to the project site, as determined by AmeriCorps.

(e) To the extent eligible, a VISTA may receive health care through a health benefits program provided by AmeriCorps.

(f) To the extent eligible, a VISTA may receive childcare support through a childcare program provided by AmeriCorps.

(g) To the extent eligible, a VISTA may elect to receive a Segal AmeriCorps Education Award, and upon successful completion of service, receive that award in an amount prescribed by AmeriCorps, in accordance with the applicable provisions of 45 CFR parts 2526, 2527, and 25285.

(1) A VISTA is eligible to elect to receive an education award if they are a citizen, national, or lawful permanent resident alien of the United States.

(2) A VISTA who elects an education award is eligible to request forbearance of a student loan from their loan-holder. A VISTA who elects an education award may, upon successful completion of service, be eligible to receive up to 100 percent of the interest accrued on a qualified student loan, consistent with the applicable provisions of 45 CFR part 2529.

(3) A VISTA is not eligible to receive more than an amount equal to the aggregate value of two full-time education awards in their lifetime.

(4) Other than for a summer associate, the amount of an education award for the successful completion of a VISTA term of service is 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 such grant may receive in the aggregate for the fiscal year in which the VISTA has enrolled in the VISTA program.

(h) A VISTA who does not elect to receive a Segal AmeriCorps Education Award upon successful completion of service receives an end-of-service stipend in an amount prescribed by AmeriCorps.

(i) In the event that a VISTA does not successfully complete a full term of service, they may not receive a pro-rated Segal AmeriCorps Education Award or a pro-rated end-of-service stipend, except in cases where the appropriate VISTA Case Manager determines the VISTA did not successfully complete a full term of service because of a compelling personal circumstance. Examples of a compelling personal circumstance are: Serious medical condition or disability of a VISTA during VISTA service; critical illness or disability of a VISTA's immediate family member (spouse, domestic partner, parent, sibling, child, or guardian) if this event makes completing a term of service unreasonably difficult; or unusual conditions not attributable to the VISTA, such as natural disaster, strike, or premature closing of a project, that make completing a term of service unreasonably difficult or infeasible.

(j) In the event of a VISTA's death during service, their family or others that they named as beneficiary in accordance with section 5582 of title 5, United States Code will be paid a pro-rated end-of-service stipend for the period during which the VISTA served. If the VISTA had elected to receive the Segal AmeriCorps Education Award for successful completion of a full term of VISTA service, AmeriCorps will, prior to payment to the named beneficiary, convert that election to an end-of-service stipend and pay the VISTA's family, or others that they named as beneficiary, a pro-rated end-of-service stipend accordingly.

§ 2556.325 May a VISTA be provided coverage for legal defense expenses related to VISTA service?

Under certain circumstances, as set forth in §§ 2556.330 through 2556.335, AmeriCorps may pay reasonable legal defense expenses incurred in judicial or administrative proceedings for the defense of a VISTA serving in the VISTA program. Such covered legal expenses consist of counsel fees, court costs, bail, and other expenses incidental to a VISTA's legal defense.

§ 2556.330 When may a VISTA be provided coverage for legal defense expenses related to criminal proceedings?

(a) For the legal defense of a VISTA member who is charged with a criminal offense related to the VISTA member's service, up to and including arraignment in Federal, State, and local criminal proceedings, AmeriCorps may pay actual and reasonable legal expenses. AmeriCorps is not required to pay any expenses for the legal defense of a VISTA member where they are charged with a criminal offense arising from alleged activity or action that is unrelated to that VISTA's service.

(b) A VISTA member's service is clearly unrelated to a charged offense when:

(1) The activity or action is alleged to have occurred prior to the VISTA member's VISTA service.

(2) The VISTA member is not at their assigned project location, such as during periods of approved leave, medical leave, emergency leave, or in administrative hold status in the VISTA program.

(3) The activity or action is alleged to have occurred at or near their assigned project, but is clearly not part of, or required by, the VISTA member's service assignment.

(c) For the legal defense, beyond arraignment in Federal, State, and local criminal proceedings, of a VISTA member who is charged with a criminal offense, AmeriCorps may also pay actual and reasonable legal expenses when:

(1) The charged offense against the VISTA member relates exclusively to their VISTA assignment or status as a VISTA member;

(2) The charged offense against the VISTA member arises from an alleged

activity or action that is a part of, or required by, the VISTA member's VISTA assignment;

(3) The VISTA member has not admitted a willful or knowing violation of law; or

(4) The charged offense against the VISTA member is not a minor offense or misdemeanor, such as a minor vehicle violation.

(d) Notwithstanding paragraphs (a) through (c) of this section, there may be situations in which the criminal proceedings at issue arise from a matter that also gives rise to a civil claim under the Federal Tort Claims Act. In such a situation, the U.S. Department of Justice may, on behalf of the United States, agree to defend the VISTA. If the U.S. Department of Justice agrees to defend the VISTA member, unless there is a conflict between the VISTA member's interest and that of the United States, AmeriCorps will not pay for expenses associated with any additional legal representation (such as counsel fees for private counsel) for the VISTA member.

§ 2556.335 When may a VISTA be provided coverage for legal defense expenses related to civil or administrative proceedings?

For the legal defense in Federal, State, and local civil judicial and administrative proceedings of a VISTA member, AmeriCorps may also pay actual and reasonable legal expenses when:

(a) The complaint or charge is against the VISTA, and is directly related to their VISTA service and not to their personal activities or obligations;

(b) The VISTA has not admitted to willfully or knowingly pursuing a course of conduct that would result in the plaintiff or complainant initiating such a proceeding; and

(c) The judgment sought involves a monetary award that exceeds $1,000.

§ 2556.340 What is non-competitive eligibility and who is eligible for it?

(a) Non-competitive eligibility is a status that means a person is eligible for appointment, by a Federal agency in the Executive branch, into a civil service position in the Federal competitive service, in accordance with 5 CFR 315.605.

(b) An individual who successfully completes at least a year-long term of service as a VISTA, and who has not been terminated for cause from the VISTA program at any time, has non-competitive eligibility status for one year following the end of the term of service as a VISTA.

(c) In addition to the year of non-competitive eligibility status as provided in paragraph (b) of this section, an individual's non-competitive eligibility status may extend for two more years, to a total of three years, if the individual is:

(1) In the military service;

(2) Studying at a recognized institution of higher learning; or

(3) In another activity which, in the view of the Federal agency referenced in paragraph (a) of this section, warrants extension.

§ 2556.345 Who may present a grievance?

(a) Under the VISTA program grievance procedure, a grievance may be presented by any individual who is currently enrolled in the VISTA program or who was enrolled in the VISTA program within the past 30 calendar days.

(b) A VISTA's grievance may not be construed as reflecting on the VISTA's standing, performance, or desirability as a VISTA.

(c) A VISTA who presents a grievance may not be subjected to restraint, interference, coercion, discrimination, or reprisal because of presentation of views.

§ 2556.350 What matters are considered grievances?

(a) Under the VISTA program grievance procedure, grievances are matters of concern, brought by a VISTA, that arise out of, and directly affect, the VISTA's service situation or that arise out of a violation of a policy, practice, or regulation governing the terms or conditions of the VISTA's service, that result in the denial or infringement of a right or benefit to the VISTA member.

(b) Matters not within the definition of a grievance as defined in paragraph (a) of this section are not grievable, and therefore, are excluded from the VISTA program grievance procedure. Though not exhaustive, examples of matters excluded from the VISTA program grievance procedure are:

(1) Matters related to a sponsor's or project's continuance or discontinuance; the number of VISTAs assigned to a VISTA project; the increases or decreases in the level of support provided to a VISTA project; the suspension or termination of a VISTA project; or the selection or retention of VISTA project staff;

(2) Matters for which a separate administrative procedure or complaint process is provided, such as early termination for cause, claims of discrimination during service, and Federal worker's compensation claims filed for illness or injury sustained in the course of carrying out VISTA activities;

(3) Matters related to the content of any law, published rule, regulation, policy, or procedure;

(4) Matters related to housing during a VISTA member's service;

(5) Matters which are, by law, subject to final administrative review outside AmeriCorps;

(6) Matters related to actions taken, or not taken, by a VISTA sponsor or subrecipient, or AmeriCorps, in compliance with or in order to fulfill the terms of a contract, grant, or other agreement related to the VISTA program; or

(7) Matters related to the internal management of AmeriCorps, unless such matters are shown to specifically and directly affect the VISTA's service situation or terms or conditions of their VISTA service.

§ 2556.355 May a VISTA have access to records as part of the VISTA grievance procedure?

(a) A VISTA is entitled to review any material in their official VISTA file and any relevant AmeriCorps records to the extent permitted by the Freedom of Information Act and the Privacy Act, 5 U.S.C. 552, 552a. Examples of materials that may be withheld include references obtained under pledge of confidentiality, official VISTA files of other VISTAs, and privileged intra-agency documents.

(b) A VISTA may review relevant materials in the possession of a sponsor to the extent such materials are disclosable by the sponsor under applicable Freedom of Information Act and privacy laws.

§ 2556.360 How may a VISTA bring a grievance?

(a) *Bringing a grievance—Step 1.*

(1) If a VISTA is currently enrolled in the VISTA program or was enrolled in the VISTA program within the past 30 calendar days, they may, within 15 calendar days of an event giving rise to a grievance or within 15 calendar days after becoming aware of such an event, bring a grievance to the sponsor or subrecipient where they are assigned to serve. If the grievance arises out of a continuing condition or practice that individually affects a VISTA, the VISTA may bring it at any time during their enrollment that they are affected by the continuing condition or practice.

(2) A VISTA brings a grievance by presenting it in writing to the executive director, or comparable individual, of the sponsoring organization where the VISTA is assigned or to the sponsor's representative who is designated to receive grievances from a VISTA.

(3) The sponsor must review and respond in writing to the VISTA's

grievance within 10 calendar days of receipt of the written grievance. The sponsor may not fail to respond to a complaint raised by a VISTA on the basis that it is not an actual grievance, or that it is excluded from coverage as a grievance, but may, in the written response, dismiss the complaint and refuse on either of those grounds to grant the requested relief.

(4) If the grievance brought by a VISTA involves a matter over which the sponsor has no substantial control or if the sponsor's representative is the supervisor of the VISTA, the VISTA may pass over the procedure set forth in paragraphs (a)(1) through (3) of this section and present the grievance in writing directly to the Deputy Regional Administrator, as described in paragraph (b) of this section.

(b) *Bringing a grievance—Step 2.*

(1) If, after a VISTA brings a grievance as set forth in paragraphs (a)(1) and (2) of this section, the matter is not resolved, they may submit the grievance in writing to the appropriate Deputy Regional Administrator. The VISTA must submit the grievance to the Deputy Regional Administrator either:

(i) Within seven calendar days of receipt of the sponsor's response; or,

(ii) In the event the sponsor does not issue a response to the VISTA within 10 calendar days of its receipt of the written grievance, within 17 calendar days of the sponsor's receipt of the written grievance.

(2) If the grievance involves a matter over which either the sponsor or subrecipient has no substantial control, or if the sponsor's representative is the supervisor of the VISTA, as described in paragraph (a)(4) of this section, the VISTA may pass over the procedure set forth in paragraphs (a)(1) through (3) of this section, and submit the grievance in writing directly to the Deputy Regional Administrator. In such a case, the VISTA must submit the grievance to the Deputy Regional Administrator within 15 calendar days of the event giving rise to the grievance occurs, or within 15 calendar days after becoming aware of the event.

(3) Within ten working days of receipt of the grievance, the Deputy Regional Administrator will respond in writing, regardless of whether or not the matter constitutes a grievance as defined under this grievance procedure and/or is timely submitted. In the response, the Deputy Regional Administrator may determine that the matter submitted as a grievance is not grievable, is not considered a grievance, or fails to meet the time limit for response. If the Deputy Regional Administrator makes any such determination, they may dismiss the complaint, setting forth the reason(s) for the dismissal. In such a case, the Deputy Regional Administrator need not address the complaint on the merits, nor make a determination of the complaint on the merits.

§ 2556.365 May a VISTA appeal a grievance?

(a) A VISTA may appeal the Deputy Regional Administrator's response to the grievance under § 2556.360(b)(3) by submitting a written appeal to the appropriate Regional Administrator. To be eligible to appeal a grievance response to the Regional Administrator, the VISTA must first have exhausted all appropriate actions as set forth in § 2556.360.

(b) A VISTA's grievance appeal must be in writing, contain sufficient detail to identify the subject matter of the grievance, specify the relief requested, and be signed by the VISTA.

(c) A VISTA must submit a grievance appeal to the appropriate Regional Administrator no later than 10 calendar days after the Deputy Regional Administrator issues their response to the grievance.

(d) Certain matters contained in a grievance appeal may be rejected, rather than denied on the merits, by the Regional Administrator. A grievance appeal may be rejected, in whole or in part, for any of the following reasons:

(1) The grievance appeal was not submitted to the appropriate Regional Administrator within the time limit specified in paragraph (c) of this section;

(2) The grievance appeal consists of matters not contained within the definition of a grievance, as specified in section § 2556.350(a);

(3) The grievance appeal consists of matters excluded from the VISTA program grievance procedure, as specified in § 2556.350(b); or

(4) The grievance appeal contains matters that are moot, or for which relief has otherwise been granted.

(e) Within 14 calendar days of receipt of the grievance, the appropriate Regional Administrator will decide the grievance appeal on the merits, or reject the grievance appeal in whole or in part, or both, as appropriate. The Regional Administrator shall notify the VISTA in writing of the decision and specify the grounds for the appeal decision. The appeal decision will include a statement of the basis for the decision and is a final decision of AmeriCorps.

Subpart E—Termination for Cause Procedures

§ 2556.400 What is termination for cause and what are the criteria for termination for cause?

(a) Termination for cause is discharge of a VISTA from the VISTA program due to a deficiency, or deficiencies, in conduct or performance.

(b) AmeriCorps may terminate a VISTA for cause for any of the following reasons:

(1) Conviction of any criminal offense under Federal, State, or local statute or ordinance;

(2) Violation of any provision of the Domestic Service Volunteer Act of 1973, as amended, or any AmeriCorps or VISTA program policy, regulation, or instruction;

(3) Failure, refusal, or inability to perform prescribed project duties as outlined in the project plan, assignment description, or as directed by the sponsor to which the VISTA is assigned;

(4) Involvement in activities which substantially interfere with the VISTA's performance of project duties;

(5) Intentional false statement, misrepresentation, omission, fraud, or deception in seeking to obtain selection as a VISTA in the VISTA program;

(6) Any conduct on the part of the VISTA which substantially diminishes their effectiveness as a VISTA; or

(7) Unsatisfactory performance of an assignment.

§ 2556.405 Who has sole authority to remove a VISTA from a VISTA project and who has sole authority to terminate a VISTA from a VISTA project or the VISTA program?

(a) AmeriCorps has the sole authority to remove a VISTA from a project where they have been assigned.

(b) AmeriCorps has the sole authority to terminate for cause or otherwise terminate a VISTA from the VISTA program.

(c) Neither the sponsoring organization nor any of its subrecipients has the authority to remove a VISTA from a project or to terminate a VISTA for cause, or for any other basis, from the VISTA program.

§ 2556.410 May a sponsor request that a VISTA be removed from its project?

(a) The head of a sponsoring organization, or their designee, may request that AmeriCorps remove a VISTA assigned to its project. Any such request must be submitted in writing to the appropriate Portfolio Manager and should state the reasons for the request.

(b) The Portfolio Manager may, at their discretion, attempt to resolve the situation with the sponsor so that a

solution other than removal of the VISTA from the project assignment is reached.

(c) When an alternative solution, as referenced in paragraph (b) of this section, is not sought, or is not reached within a reasonable time period, the Portfolio Manager will remove the VISTA from the project.

§ 2556.415 May AmeriCorps remove a VISTA from a project without the sponsor's request for removal?

Of its own accord, AmeriCorps may remove a VISTA from a project assignment without the sponsor's request for removal.

§ 2556.420 What are termination for cause proceedings?

(a) Termination for cause proceedings remove a VISTA from a project assignment due to an alleged deficiency, or alleged deficiencies, in conduct or performance, and are initiated by AmeriCorps.

(b) AmeriCorps, to the extent practicable, communicates the matter, and the administrative procedures as set forth in paragraphs (c) through (e) of this section, with the VISTA who is removed from a VISTA project.

(c) The VISTA Case Manager will notify the VISTA in writing of AmeriCorps' proposal to terminate for cause. The written proposal to terminate the VISTA for cause must give them the reason(s) for the proposed termination, and notify them that they have 10 calendar days within which to submit a written answer to the proposal to terminate them cause and to furnish any accompanying statements or written material. The VISTA must submit their answer to the VISTA Case Manager by the deadline identified in the written proposal to terminate for cause.

(d) Within 10 calendar days of the expiration of the VISTA's deadline to answer the proposal to terminate for cause, AmeriCorps will issue a written decision regarding the proposal to terminate for cause.

(1) If AmeriCorps decides to terminate the VISTA for cause, its written decision will set forth the reasons for the determination and the effective date of termination (which may be on or after the date of the decision).

(2) If AmeriCorps decides not to terminate the VISTA for cause, the written decision will indicate that the proposal to terminate for cause is rescinded.

(e) A VISTA who does not submit a timely answer to the appropriate VISTA Case Manager, as set forth in paragraph (c) of this section, is not entitled to appeal the decision regarding the proposal to terminate for cause. In such cases, AmeriCorps may terminate the VISTA for cause, on the date identified in the decision, and the termination action is final.

§ 2556.425 May a VISTA appeal their termination for cause?

(a) Within 10 calendar days of the appropriate AmeriCorps Director's issuance of the decision to terminate the VISTA for cause, as set forth in § 2556.420(d), the VISTA may appeal the decision to the VMSU Director. The appeal must be in writing and specify the reasons for the VISTA's disagreement with the decision.

(b) AmeriCorps will not incur any expenses or travel allowances for the VISTA in connection with the preparation or presentation of the appeal.

(c) The VISTA may have access to records as follows:

(1) The VISTA may review any material in the VISTA's official AmeriCorps file and any relevant AmeriCorps records to the extent permitted by the Freedom of Information Act and the Privacy Act, 5 U.S.C. 552, 552a. Examples of documents that may be withheld include references obtained under pledge of confidentiality, official files of other program participants, and privileged intra-agency documents.

(2) The VISTA may review relevant records in the possession of a sponsor to the extent such documents are disclosable by the sponsor under applicable freedom of information act and privacy laws.

(d) Within 14 calendar days of receipt of any appeal by the VISTA, the VMSU Director or equivalent AmeriCorps official will issue a written appeal determination indicating the reasons for the appeal determination. The appeal determination will be final.

§ 2556.430 Is a VISTA who is terminated early from the VISTA program for other than cause entitled to appeal under these procedures?

(a) Only a VISTA whose early termination from the VISTA program is for cause, and who has answered the proposal to terminate them for cause in a timely manner, as set forth in § 2556.420(c), is entitled to appeal the early termination action, as referenced in § 2556.425. A termination for cause is based on a deficiency, or deficiencies, in the performance or conduct of a VISTA.

(b) The following types of early terminations from the VISTA program are not terminations for cause, and are not entitled to appeal under the early termination appeal procedure set forth in §§ 2556.420 and 2556.425:

(1) Resignation from the VISTA program prior to the issuance of a decision to terminate for cause, as set forth in § 2556.420(d);

(2) Early termination from the VISTA program because a VISTA did not secure a suitable reassignment to another project; and

(3) Medical termination from the VISTA program.

Subpart F—Summer Associates

§ 2556.500 How is a position for a summer associate established in a project?

Subject to VISTA assistance availability, AmeriCorps approves the establishment of summer associate positions based on the following factors:

(a) The need in the community, as demonstrated by the sponsor, for the performance of project activities by a summer associate(s);

(b) The content and quality of summer associate project plans;

(c) The capacity of the sponsor to implement the summer associate project activities; and

(d) The sponsor's compliance with all applicable parts of the DVSA, VISTA program policy, and the sponsor's Memorandum of Agreement, which incorporates their project application.

§ 2556.505 How do summer associates differ from other VISTAs?

Summer associates differ from other VISTAs in the following ways:

(a) Summer associates are not eligible to receive:

(1) Health care through a health benefits program provided by AmeriCorps;

(2) Childcare support through a childcare program provided by AmeriCorps;

(3) Payment for settling-in expenses; or

(4) Non-competitive eligibility in accordance with 5 CFR 315.605.

(b) Absent extraordinary circumstances, summer associates are not eligible to receive:

(1) Payment for travel expenses incurred for travel to or from the project site to which the summer associate is assigned; or

(2) A relocation travel allowance to offset the cost of relocating from the summer associate's home of record to the project site to which they are assigned to serve.

(c) AmeriCorps may discharge a summer associate due to a deficiency, or deficiencies, in conduct or performance. Summer associates are not subject to subpart E of this part, or to the grievance procedures provided to VISTAs set forth in §§ 2556.345 through 2556.365.

Subpart G—VISTA Leaders

§ 2556.600 How is a position for a leader established in a project, or in multiple projects within a contiguous geographic region?

(a) At its discretion, AmeriCorps may approve the establishment of a leader position based on the following factors:

(1) The need for a leader in a project of a substantial size and with multiple VISTAs assigned to serve at that project, or the need for leader for multiple projects located within a contiguous geographic region.

(2) The need for a leader to assist with the communication of VISTA policies and administrative procedures to VISTAs within a project, or throughout the multiple projects within a contiguous geographic region, as applicable.

(3) The need for a leader to assist with the professional development of VISTAs within a project, or throughout the multiple projects within a contiguous geographic region, as applicable.

(4) The need for a leader to assist with the recruitment and preparation for the arrival of VISTAs within a project, or throughout the multiple projects within a contiguous geographic region, as applicable.

(5) The capacity of the VISTA supervisor to support and guide the leader.

(b) A sponsor may request, in its project application, that AmeriCorps establish a leader position in its project.

§ 2556.605 Who is eligible to apply to serve as a leader?

An individual is eligible to apply to serve as a leader if they have successfully completed any of the following:

(a) At least one year of service as a VISTA;

(b) At least one full term of service as a full-time AmeriCorps State and National member;

(c) At least one full term of service as a member of the AmeriCorps National Civilian Community Corps (NCCC); or

(d) At least one traditional term of service as a Peace Corps Volunteer.

§ 2556.610 What is the application process to apply to become a leader?

(a) *Application package.* An eligible individual must apply in writing to AmeriCorps to become a leader. The sponsor's recommendation must be included with the individual's application to become a leader.

(b) *Sponsor recommendation.* A sponsor with which an individual is seeking to serve as a leader must recommend the individual to become a leader, in writing, to AmeriCorps.

(c) *Selection.* AmeriCorps has sole authority to select a leader. The criteria considered for selection include the individual's experience, special skills, and leadership, as demonstrated in the application and the sponsor's recommendation.

§ 2556.615 Who reviews a leader application and who approves or disapproves a leader application?

AmeriCorps reviews the application package for the leader position, considers the recommendation of the sponsor, and approves or disapproves the individual to serve as a leader.

§ 2556.620 How does a leader differ from other VISTAs?

(a) The application process to become a leader, as described in § 2556.610, is separate and distinct from the application process to enroll as a VISTA in the VISTA program.

(b) A leader may receive a living allowance computed at a higher daily rate than other VISTAs, as authorized under section 105(a)(1)(B) of the DVSA.

(c) A leader is subject to all the terms and conditions of service described in § 2556.625.

§ 2556.625 What are terms and conditions of service for a leader?

Though not exhaustive, terms and conditions of service as a leader include:

(a) A leader makes a full-time commitment to serve as a leader, without regard to regular working hours, for a minimum of one year.

(b) To the maximum extent practicable, a leader must live among and at the economic level of the low-income community served by the project and actively seek opportunities to engage with that low-income community.

(c) A leader aids the communication of VISTA policies and administrative procedures to VISTAs.

(d) A leader assists with the leadership development of VISTAs.

(e) A leader is a resource in the development and delivery of training for VISTAs.

(f) A leader may assist the sponsor with recruitment and preparation for the arrival of VISTAs.

(g) A leader may advise a supervisor on potential problem areas and needs of VISTAs.

(h) A leader aids VISTAs in the development of effective working relationships and understanding of VISTA program concepts.

(i) A leader may aid the supervisor and sponsor in directing or focusing the VISTA project to best address the community's needs.

(j) A leader may serve as a collector of data for performance measures of the project and the VISTAs.

(k) A leader is prohibited from supervising VISTAs. A leader is also prohibited from handling or managing, on behalf of the project, personnel-related matters affecting VISTAs. Personnel-related matters affecting VISTAs must be managed and handled by the project and in coordination with the appropriate AmeriCorps Regional Office.

Subpart H—Restrictions and Prohibitions on Political Activities and Lobbying

§ 2556.700 Who is covered by this subpart?

(a) All VISTAs, including leaders and summer associates, are subject to this subpart.

(b) All employees of VISTA sponsors and subrecipients whose salaries or other compensation are paid, in whole or in part, with VISTA grant assistance are subject to this subpart.

(c) All VISTA sponsors and subrecipients are subject to this subpart.

§ 2556.705 What is prohibited political activity?

For purposes of the regulations in this subpart, ''prohibited political activity'' means an activity directed toward the success or failure of a political party, candidate for partisan political office, or partisan political group.

§ 2556.710 What political activities are VISTAs prohibited from engaging in?

(a) A VISTA may not use their official authority or influence to interfere with or affect the result of an election.

(b) A VISTA may not use their official authority or influence to coerce any individual to participate in political activity.

(c) A VISTA may not use their official VISTA program title while participating in prohibited political activity.

(d) A VISTA may not participate in prohibited political activities in the following circumstances:

(1) While they are on duty;

(2) While they are wearing an article of clothing, logo, insignia, or other similar item that identifies AmeriCorps, the VISTA program, or one of AmeriCorps' other national service programs;

(3) While they are in any room or building occupied in the discharge of VISTA duties by an individual employed by the sponsor; and

(4) While using a vehicle owned or leased by a sponsor or subrecipient, or while using a privately-owned vehicle in the discharge of VISTA duties.

§ 2556.715 What political activities may a VISTA participate in?

(a) Provided that paragraph (b) of this section is fully adhered to, a VISTA may:

(1) Express their opinion privately and publicly on political subjects;

(2) Be politically active in connection with a question that is not specifically identified with a political party, such as a constitutional amendment, referendum, approval of a municipal ordinance, or any other question or issue of similar character;

(3) Participate in the nonpartisan activities of a civic, community, social, labor, professional, or similar organization; and

(4) Participate fully in public affairs, except as prohibited by other Federal law, in a manner that does not compromise their efficiency or integrity as a VISTA, or compromise the neutrality, efficiency, or integrity of AmeriCorps or the VISTA program.

(b) A VISTA may participate in political activities set forth in paragraph (a) of this section as long as such participation:

(1) Does not interfere with the performance of, or availability to perform, their assigned VISTA project duties;

(2) Does not interfere with their provision of service in the VISTA program;

(3) Does not involve any use of VISTA assistance, resources or funds;

(4) Would not result in the identification of the VISTA as being a participant in or otherwise associated with the VISTA program;

(5) Is not conducted during scheduled VISTA service hours; and

(6) Does not interfere with the full-time commitment to remain available for VISTA service without regard to regular working hours, at all times during periods of service, except for authorized periods of leave.

§ 2556.720 May VISTAs participate in political organizations?

(a) Provided that paragraph (b) of this section is fully adhered to, and in accordance with the prohibitions set forth in § 2556.710, a VISTA may:

(1) Be a member of a political party or other political group and participate in its activities;

(2) Serve as an officer of a political party or other political group, a member of a national, State, or local committee of a political party, an officer or member of a committee of a political group, or be a candidate for any of these positions;

(3) Attend and participate fully in the business of nominating caucuses of political parties;

(4) Organize or reorganize a political party organization or political group;

(5) Participate in a political convention, rally, or other political gathering; and

(6) Serve as a delegate, alternate, or proxy to a political party convention.

(b) A VISTA may participate in a political organization as long as such participation complies with the restrictions set out in paragraphs (b)(1) through (6) of § 2556.715.

(1) Does not interfere with the performance of, or availability to perform, their assigned VISTA project duties;

(2) Does not interfere with the provision of service in the VISTA program;

(3) Does not involve any use of VISTA assistance, resources or funds;

(4) Would not result in the identification of the VISTA as being a participant in or otherwise associated with the VISTA program;

(5) Is not conducted during scheduled VISTA service hours; and

(6) Does not interfere with the full-time commitment to remain available for VISTA service without regard to regular working hours, at all times during periods of service, except for authorized periods of leave.

§ 2556.725 May VISTAs participate in political campaigns?

(a) Provided that paragraph (b) of this section is fully adhered to, and in accordance with the prohibitions set forth in § 2556.710, a VISTA may:

(1) Display pictures, signs, stickers, badges, or buttons associated with political parties, candidates for partisan political office, or partisan political groups, as long as these items are displayed in accordance with the prohibitions set forth in § 2556.710;

(2) Initiate or circulate a nominating petition for a candidate for partisan political office;

(3) Canvass for votes in support of or in opposition to a partisan political candidate or a candidate for political party office;

(4) Endorse or oppose a partisan political candidate or a candidate for political party office in a political advertisement, broadcast, campaign literature, or similar material; and

(5) Address a convention caucus, rally, or similar gathering of a political party or political group in support of or in opposition to a partisan political candidate or a candidate for political party office.

(b) A VISTA may participate in a political campaign as long as such participation:

(1) Does not interfere with the performance of, or availability to perform, their assigned VISTA project duties;

(2) Does not interfere with the provision of service in the VISTA program;

(3) Does not involve any use of VISTA assistance, resources or funds;

(4) Would not result in the identification of the VISTA as being a participant in or otherwise associated with the VISTA program;

(5) Is not conducted during scheduled VISTA service hours; and

(6) Does not interfere with the full-time commitment to remain available for VISTA service without regard to regular working hours, at all times during periods of service, except for authorized periods of leave.

§ 2556.730 May VISTAs participate in elections?

(a) Provided that paragraph (b) of this section is fully adhered to, and in accordance with the prohibitions set forth in § 2556.710, a VISTA may:

(1) Register and vote in any election;

(2) Act as recorder, watcher, challenger, or similar officer at polling places;

(3) Serve as an election judge or clerk, or in a similar position; and

(4) Drive voters to polling places for a partisan political candidate, partisan political group, or political party.

(5) Participate in voter registration activities.

(b) A VISTA may participate in elections as long as such participation:

(1) Does not interfere with the performance of, or availability to perform, their assigned VISTA project duties;

(2) Does not interfere with the provision of service in the VISTA program;

(3) Does not involve any use of VISTA assistance, resources or funds;

(4) Would not result in the identification of the VISTA as being a participant in or otherwise associated with the VISTA program;

(5) Is not conducted during scheduled VISTA service hours; and

(6) Does not interfere with the full-time commitment to remain available for VISTA service without regard to regular working hours, at all times during periods of service, except for authorized periods of leave.

§ 2556.735 May a VISTA be a candidate for public office?

(a) Except as provided in paragraph (c) of this section, no VISTA may run for the nomination to, or as a candidate for election to, partisan political office.

(b) In accordance with the prohibitions set forth in § 2556.710, a

VISTA may participate in elections as long as such participation:

(1) Does not interfere with the performance of, or availability to perform, their assigned VISTA project duties;

(2) Does not interference with the provision of service in the VISTA program;

(3) Does not involve any use of VISTA assistance, resources or funds;

(4) Would not result in the identification of the VISTA as being a participant in or otherwise associated with the VISTA program;

(5) Is not conducted during scheduled VISTA service hours; and

(6) Does not interfere with the full-time commitment to remain available for VISTA service without regard to regular working hours, at all times during periods of service, except for authorized periods of leave.

(c) Provided that paragraphs (a) and (b) of this section are adhered to, and in accordance with the prohibitions set forth in § 2556.710, a VISTA may:

(1) Run as an independent candidate in a partisan election in designated U.S. municipalities and political subdivisions as set forth at 5 CFR part 733; and

(2) Run as a candidate in a non-partisan election.

§ 2556.740 May VISTAs participate in political fundraising activities?

(a) Provided that paragraphs (b) through (d) of this section are fully adhered to, and in accordance with the prohibitions set forth in § 2556.710, a VISTA may:

(1) Make a political contribution to a political party, political group, campaign committee of a candidate for public office in a partisan election;

(2) Attend a political fundraiser; and

(3) Solicit, accept, or receive uncompensated volunteer services for a political campaign from any individual.

(b) A VISTA may participate in fundraising activities as long as such participation:

(1) Does not interfere with the performance of, or availability to perform, their assigned VISTA project duties;

(2) Does not interfere with the provision of service in the VISTA program;

(3) Does not involve any use of VISTA assistance, resources or funds;

(4) Would not result in the identification of the VISTA as being a participant in or otherwise associated with the VISTA program;

(5) Is not conducted during scheduled VISTA service hours; and

(6) Does not interfere with the full-time commitment to remain available for VISTA service without regard to regular working hours, at all times during periods of service, except for authorized periods of leave.

(c) A VISTA may not knowingly:

(1) Personally solicit, accept, or receive a political contribution from another individual;

(2) Personally solicit political contributions in a speech or keynote address given at a fundraiser;

(3) Allow their perceived or actual affiliation with the VISTA program, or their official title as a VISTA, to be used in connection with fundraising activities; or

(4) Solicit, accept, or receive uncompensated individual volunteer services from a subordinate (*e.g.,* a leader may not solicit, accept or receive a political contribution from a VISTA).

(d) Except for VISTAs who reside in municipalities or political subdivisions designated under 5 CFR part 733, no VISTA may accept or receive a political contribution on behalf of an individual who is a candidate for local partisan political office and who represents a political party.

§ 2556.745 Are VISTAs prohibited from soliciting or discouraging the political participation of certain individuals?

(a) A VISTA may not knowingly solicit or discourage the participation in any political activity of any individual who has an application for any compensation, grant, contract, ruling, license, permit, or certificate pending before AmeriCorps or the VISTA program.

(b) A VISTA may not knowingly solicit or discourage the participation in any political activity of any individual who is the subject of, or a participant in, an ongoing audit, investigation, or enforcement action being carried out by or through AmeriCorps or the VISTA program.

§ 2556.750 What restrictions and prohibitions are VISTAs who campaign for a spouse or family member subject to?

A VISTA who is the spouse or family member of a candidate for partisan political office, candidate for political party office, or candidate for public office in a nonpartisan election is subject to the same restrictions and prohibitions as other VISTAs, as set forth in § 2556.725.

§ 2556.755 May VISTAs participate in lawful demonstrations?

In accordance with the prohibitions set forth in § 2556.710, VISTAs may participate in lawful demonstrations, political rallies, and other political meetings, so long as such participation is in conformance with all of the following:

(a) Occurs only while on authorized leave or while otherwise off duty;

(b) Does not include attempting to represent, or representing, the views of VISTAs or the VISTA program on any public issue;

(c) Could not be reasonably understood by the community as being identified with the VISTA program, the project, or other elements of VISTA service; and

(d) Does not interfere with the discharge of VISTA duties.

§ 2556.760 May a sponsor or subrecipient approve the participation of a VISTA in a demonstration or other political meeting?

(a) No VISTA sponsor or subrecipient may approve a VISTA to be involved in planning, initiating, participating in, or otherwise aiding or assisting in any demonstration or other political meeting.

(b) If a VISTA sponsor or subrecipient, subsequent to the receipt of any AmeriCorps financial assistance, including the assignment of VISTAs, approves the participation of a VISTA in a demonstration or other political meeting, that VISTA sponsor or subrecipient is subject to procedures related to the suspension or termination of such assistance, as provided in subpart B of this part, §§ 2556.135 through 2556.140.

§ 2556.765 What disciplinary actions are VISTAs subject to for violating restrictions or prohibitions on political activities?

Violations by a VISTA of any of the prohibitions or restrictions set forth in this subpart may warrant termination for cause, in accordance with proceedings set forth at §§ 2556.420, 2556.425, and 2556.430.

§ 2556.770 What are the requirements of VISTA sponsors and subrecipients regarding political activities?

(a) All sponsors and subrecipients are required to:

(1) Understand the restrictions and prohibitions on the political activities of VISTAs, as set forth in this subpart;

(2) Provide training to VISTAs on all applicable restrictions and prohibitions on political activities, as set forth in this subpart, and use training materials that are consistent with these restrictions and prohibitions;

(3) Monitor on a continuing basis the activity of VISTAs for compliance with this subpart; and

(4) Report all violations or questionable situations immediately to the appropriate AmeriCorps State Office.

(b) Failure of a sponsor to comply with the requirements of this subpart, or

a violation of the requirements contained in this subpart by the sponsor or subrecipient, sponsor or subrecipient's covered employees, agents, or VISTAs, may be deemed a material failure to comply with terms or conditions of the VISTA program. In such a case, the sponsor is subject to procedures related to the denial or reduction, or suspension or termination, of such assistance, as provided in §§ 2556.125, 2556.130, and 2556.140.

§ 2556.775 What prohibitions and restrictions on political activity apply to employees of VISTA sponsors and subrecipients?

All employees of VISTA sponsors and subrecipients, whose salaries or other compensation are paid, in whole or in part, with VISTA funds are subject to all applicable prohibitions and restrictions described in this subpart in the following circumstances:

(a) Whenever they are engaged in an activity that is supported by AmeriCorps or VISTA funds or assistance; and

(b) Whenever they identify themselves as acting in their capacity as an official of a VISTA project that receives AmeriCorps or VISTA funds or assistance, or could reasonably be perceived by others as acting in such a capacity.

§ 2556.780 What prohibitions on lobbying activities apply to VISTA sponsors and subrecipients?

(a) No VISTA sponsor or subrecipient may assign a VISTA to perform service or engage in activities related to influencing the passage or defeat of legislation or proposals by initiative petition.

(b) No VISTA sponsor or subrecipient may use any AmeriCorps financial assistance, such as VISTA funds or the services of a VISTA, for any activity related to influencing the passage or defeat of legislation or proposals by initiative petition.

Fernando Laguarda,

General Counsel.

[FR Doc. 2023–01443 Filed 1–25–23; 8:45 am]

BILLING CODE 6050–28–P

Notices

Federal Register
Vol. 88, No. 17
Thursday, January 26, 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.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

The Department of Agriculture will submit the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. Comments are requested regarding: whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology Comments regarding these information collections are best assured of having their full effect if received by February 27, 2023. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Agricultural Marketing Service

Title: Local Food Directories and Survey (formerly Farmers Market Directory and Survey).

OMB Control Number: 0581–0169.

Summary of Collection: Under the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*), AMS is responsible for conducting research to enhance market access for small- and medium-sized farmers. To facilitate distribution of U.S. agricultural products, MSD identifies marketing opportunities; provides analysis to help take advantage of those opportunities; and develops and evaluates solutions, including improving farmers markets and other direct-to-consumer marketing activities. Various types of direct-to-customer local food enterprises serve different parts of the food marketing chain but all focus on the small-to medium-sized agricultural producers that have difficulty obtaining access to large scale commercial distribution channels.

Need and Use of the Information: This collection gathers the information necessary to populate the four direct to customer directories contained in USDA's Local Food Directories. USDA's: National Farmers Market, National CSA, National Food Hub and National On-Farm Market Directories. These directories provide free advertising to the operators of these four direct to customer marketing channels. Approximately 5,000 directory updates occur annually. In addition, this collection enables a comprehensive survey of farmers market sector with USDA's National Farmers Market Managers Survey.

Description of Respondents: Businesses or other for-profits; Farms; Individuals or Households.

Number of Respondents: 66,250.

Frequency of Responses: Reporting: Annual; On occasion.

Total Burden Hours: 2,069.

Levi S. Harrell,

Departmental Information Collection Clearance Officer.

[FR Doc. 2023–01532 Filed 1–25–23; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Forest Service

Ravalli Resource Advisory Committee

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Notice of meeting.

SUMMARY: The Ravalli Resource Advisory Committee (RAC) will hold a public meeting according to the details shown below. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act (FACA). The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act, as well as make recommendations on recreation fee proposals for sites on the Bitterroot National Forest, consistent with the Federal Lands Recreation Enhancement Act. General information and meeting details can be found at the following website: *https://fs.usda.gov/main/bitterroot/workingtogether/advisorycommittees.*

DATES: The meeting will be held on February 22, 2023, 9 a.m.–4 p.m., Mountain Standard Time. All RAC meetings are subject to cancellation. For status of the meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: This meeting is open to the public and will be held at the Bitterroot Forest Supervisor's Office, 1801 N First Street, Hamilton, MT 59840. The public may also join virtually via telephone and/or video conference. Virtual meeting participation details can be found on the website listed under **SUMMARY** or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received upon request.

FOR FURTHER INFORMATION CONTACT: Abbie Jossie, Designated Federal Officer (DFO), by phone at 406–821–4244 or email at *abbie.jossie@usda.gov* or Tod McKay, RAC Coordinator at 406–363–7122 or email at *tod.mckay@usda.gov.*

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

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

1. Hear from Title II project proponents and discuss Title II project proposals;
2. Make funding recommendations on Title II projects;
3. Approve meeting minutes;
4. Schedule the next meeting.

The meeting is open to the public. The agenda will include time for individuals to make oral statements of three minutes or less. Individuals wishing to make an oral statement should make a request in writing at least three days prior to the meeting date to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Tod McKay, 1801 N First Street, Hamilton, MT 59840; or by email to *tod.mckay@usda.gov.* Persons with disabilities who require alternative means of communication for program information (*e.g.,* Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at 202–720–2600 (voice and TTY) or contact USDA through the Federal Relay Service at 800–877–8339. Additionally, program information may be made available in languages other than English.

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

Equal opportunity practices in accordance with USDA's policies will be followed in all appointments to the Committee. To ensure that the recommendations of the Committee have taken into account the needs of the diverse groups served by USDA, membership shall include to the extent possible, individuals with demonstrated ability to represent minorities, women, and person with disabilities. USDA is an equal opportunity provider, employer, and lender.

Dated: January 23, 2023.

Egypt Simon,

Acting USDA Committee Management Officer.

[FR Doc. 2023–01595 Filed 1–25–23; 8:45 am]

BILLING CODE 3411–15–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Briefings of the New York Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: U.S. Commission on Civil Rights.

ACTION: Notice of virtual briefings.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the New York Advisory Committee (Committee) to the U.S. Commission on Civil Rights will hold virtual briefings. The purpose of these briefings is to hear testimony on the New York child welfare system.

DATES: Wednesday, February 15, 2023, at 1 p.m. (ET) and Friday, February 17, 2023, at 1 p.m. (ET).

ADDRESSES: Meetings will be held via Zoom.

Registration Link: https://tinyurl.com/2sefj27t

Join by Phone (Audio Only): Dial (833) 435–1820 USA Toll-Free; Webinar ID: 160 065 6097#

FOR FURTHER INFORMATION CONTACT: Mallory Trachtenberg, DFO, at *mtrachtenberg@usccr.gov* or (202) 809–9618.

SUPPLEMENTARY INFORMATION: Committee meetings are available to the public through the conference link above. Any interested member of the public may listen to the meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. If joining via phone, callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Individuals who are deaf, deafblind, and hard of hearing may also follow the proceedings by first calling the Federal Relay Service at (800) 877–8339 and providing the Service with the conference details found through registering at the web link above. To request additional accommodations, please email Sarah Villanueva at *svillanueva@usccr.gov* at least ten (10) days prior to the meeting.

Members of the public are also entitled to submit written comments; the comments must be received within 30 days following the meeting. Written comments may be emailed to *svillanueva@usccr.gov.* Persons who desire additional information may contact the Regional Programs Coordination Unit at (202) 809–9618.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Coordination Unit as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, New York Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Coordination Unit at the above phone number.

Agenda

I. Welcome Remarks
II. Panelist Presentations
III. Committee Q&A
IV. Public Comment
V. Closing Remarks
VI. Adjournment

Dated: January 20, 2023.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2023–01528 Filed 1–25–23; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Commonwealth of the Northern Mariana Islands Advisory Committee; Cancellation

AGENCY: Commission on Civil Rights.

ACTION: Notice; cancellation of virtual business meeting.

SUMMARY: The Commission on Civil Rights published a notice in the **Federal Register** concerning a virtual business meeting of the Commonwealth of the Northern Mariana Islands Advisory Committee. The meeting scheduled for Friday, February 10, 2023, at 8:30 a.m. (ChST) is cancelled. The notice is in the **Federal Register** of Friday, November 4, 2022, in FR Doc. 2022–24056 in the

first, second, and third columns of page 66641.

FOR FURTHER INFORMATION CONTACT: Liliana Schiller, *lschiller@usccr.gov,* (202) 770–1856.

Dated: January 20, 2023.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2023–01518 Filed 1–25–23; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Tennessee Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA) that a meeting of the Tennessee Advisory Committee to the Commission will convene by Zoom on Wednesday, February 8, 2023, at 3 p.m. (CT). The purpose of the meeting is to hear testimony on the Committee's project on voting rights and conduct a business meeting.

DATES: The meeting will take place on Wednesday, February 8, 2023, from 3 p.m.–5 p.m. (CST).

ADDRESSES:

Registration Link (Audio/Visual): https://www.zoomgov.com/meeting/register/vJItf-mhqTMtGUGdzYw0ZeGzSJzpor6Ur-s

Telephone (Audio Only): Dial (833) 568–8864 USA Toll Free; Access Code: 160 809 7873

FOR FURTHER INFORMATION CONTACT: Victoria Moreno at *vmoreno@usccr.gov* or by phone at 434–515–0204.

SUPPLEMENTARY INFORMATION: This meeting is available to the public through the Zoom link above. If joining only via phone, callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Individuals who are deaf, deafblind and hard of hearing may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the call-in number found through registering at the web link provided above for the meeting.

Members of the public are entitled to make comments during the open period at the end of the meeting. Members of the public may also submit written comments; the comments must be received in the Regional Programs Unit within 30 days following the respective meeting. Written comments may be emailed to Victoria Moreno at *vmoreno@usccr.gov.* All written comments received will be available to the public.

Persons who desire additional information may contact the Regional Programs Unit at (202) 809–9618. Records and documents discussed during the meeting will be available for public viewing as they become available at the *www.facadatabase.gov.* Persons interested in the work of this advisory committee are advised to go to the Commission's website, *www.usccr.gov,* or to contact the Regional Programs Unit at the above phone number or email address.

Agenda

Wednesday, February 8, 2023, at 3 p.m. (CT)

1. Welcome & Roll Call
2. Chair's Comments
3. Panelist Testimony
4. Committee Business
5. Next Steps
6. Public Comment
7. Adjourn

Dated: January 20, 2023.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2023–01512 Filed 1–25–23; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Nebraska Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Nebraska Advisory Committee (Committee) to the U.S. Commission on Civil Rights will hold a meeting on Thursday, January 26, 2023 at 4:00 p.m.–5:00 p.m. Central Time. The purpose for the meetings is to discuss the proposal for their project on the effects of the pandemic on education in the state.

DATES: The meetings will take place on: Thursday, January 26, 2023, from 4:00 p.m.–5:00 p.m. Central Time.

Online Regisration (Audio/Visual): https://www.zoomgov.com/meeting/register/vJItc-mqpzIrE95jNNjLJIY3D7SLJ6-uv0Q

Telephone (Audio Only): Dial 833 435 1820 USA Toll Free; Access code: 160 402 9919#

FOR FURTHER INFORMATION CONTACT: Victoria Moreno at *vmoreno@usccr.gov,* or by phone at 434–515–0204.

SUPPLEMENTARY INFORMATION: This meeting is available to the public through the Zoom link above. If joining only via phone, callers can expect to incur charges for calls they initiate over wireless lines and the Commission will not refund any incurred charges.

Individuals who are deaf, deafblind and hard of hearing may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be emailed to Victoria Moreno at *vmoreno@usccr.gov.* All written comments received will be available to the public.

Persons who desire additional information may contact the Regional Programs Unit at (202) 809–9618. Records and documents discussed during the meeting will be available for public viewing as they become available at *www.facadatabase.gov.* Persons interested in the work of this Committee are advised to go to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Unit at the above email or email address.

Agenda

I. Welcome and Roll Call

II. Chair's Comments

III. Discuss Project Proposal

IV. Next Steps

V. Public Comment

VI. Adjournment

Exceptional Circumstance: Pursuant to 41 CFR 102–3.150, the notice for this meeting is given fewer than 15 calendar days prior to the meeting because of the exceptional circumstances of pending expiration of Committee member appointment terms.

Dated: January 20, 2023.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2023–01531 Filed 1–25–23; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Florida Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of virtual business meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act, that the Florida Advisory Committee (Committee) to the U.S. Commission on Civil Rights will hold a virtual business meeting via Zoom at 12 p.m. ET on Monday, February 6, 2023, to review its draft report on voting rights in the state.

DATES: The meeting will take place on Monday, February 6, 2023, from 12 p.m.–2 p.m. ET.

ADDRESSES:

Registration Link (Audio/Visual): https://tinyurl.com/2nt56upv

Telephone (Audio Only): Dial (833) 435–1820 USA Toll Free; Meeting ID: 161 739 9294

FOR FURTHER INFORMATION CONTACT: Melissa Wojnaroski, DFO, at *mwojnaroski@usccr.gov* or (202) 816–4158.

SUPPLEMENTARY INFORMATION: Committee meetings are available to the public through the registration link above. Any interested member of the public may listen to the meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. Per the Federal Advisory Committee Act, members of the public who wish to speak during public comment must provide their name to the Commission; however, if a member of the public wishes to join anonymously, please join by phone. If joining via phone, callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Closed captions will be provided. Individuals who would like to request additional accessibility accommodations, please email *mwojnaroski@usccr.gov* at least 10 business days prior to the meeting.

Members of the public are entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be emailed to Liliana Schiller at *lschiller@usccr.gov.* Persons who desire additional information may contact the Regional Programs Coordination Unit at (202) 809–9618.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Coordination Unit, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Florida Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Coordination Unit at the above phone number.

Agenda

I. Welcome & Roll Call
II. Committee Discussion
III. Public Comment
IV. Next Steps
V. Adjournment

Dated: January 20, 2022.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2023–01513 Filed 1–25–23; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Puerto Rico Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a meeting of the Puerto Rico Advisory Committee to the Commission will convene by virtual web conference on Monday, February 13, 2023, at 3:30 p.m. Atlantic Time (2:30 p.m. Eastern Time). The purpose is to discuss their project on the civil rights impacts of the Insular Cases in Puerto Rico.

DATES: February 13, 2023, Monday, at 3:30 p.m. (AT):

ADDRESSES: Meeting will be held via Zoom.

Meeting Link (Audio/Visual): https://tinyurl.com/4d25mckb

Join by Phone (Audio Only): 1–551–285–1373; Meeting ID: 161 144 0473#

FOR FURTHER INFORMATION CONTACT: Email Victoria Moreno, Designated Federal Officer at *vmoreno@usccr.gov,* or by phone at 434–515–0204.

SUPPLEMENTARY INFORMATION: This meeting will be held in Spanish. English interpretation can be made available upon request 10 days before the meeting. The request can be made to Evelyn Bohor at *ebohor@usccr.gov.* This meeting is available to the public through the link above. If joining only via phone, callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Individuals who are deaf, deafblind and hard of hearing may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the call-in number found through registering at the web link provided above for the meeting.

Members of the public are entitled to make comments during the open period at the end of the meeting. Members of the public may also submit written comments; the comments must be received in the Regional Programs Unit within 30 days following the respective meeting. Written comments may be emailed to Victoria Moreno at *vmoreno@usccr.gov.* All written comments received will be available to the public.

Persons who desire additional information may contact the Regional Programs Unit at (202) 809–9618. Records and documents discussed during the meeting will be available for public viewing as they become available at the *www.facadatabase.gov.* Persons interested in the work of this advisory committee are advised to go to the Commission's website, *www.usccr.gov,* or to contact the Regional Programs Unit at the above phone number or email address.

Agenda

1. Welcome & Roll Call
2. Committee Discussion on Project Regarding the Civil Rights Impacts of the Insular Cases in Puerto Rico
3. Next Steps
4. Public Comment
5. Other Business
6. Adjourn

Dated: January 20, 2023.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2023–01526 Filed 1–25–23; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meetings of the Pennsylvania Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meetings.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Pennsylvania Advisory Committee (Committee) to the U.S. Commission on Civil Rights will hold a Zoom meeting on Friday February 3, 2023 from 11:00 a.m.–12:00 p.m. Eastern time. The purpose of the meeting is for the Committee to discuss a partial draft of its upcoming report on fair housing. Friday February 3, 2023 from 11:00 a.m.–12:00 p.m. Eastern time.

Registration (Audio/Visual): https://bit.ly/3wcNfYy

Telephone (Audio Only): (833) 435–1820 Toll Free; Meeting ID: 161 189 9325

FOR FURTHER INFORMATION CONTACT: Melissa Wojnaroski, DFO, at *mwojnaroski@usccr.gov* or (202) 618–4158.

SUPPLEMENTARY INFORMATION: Members of the public may listen to these discussions. Committee meetings are available to the public through the above listed online registration link. An open comment period will be provided to allow members of the public to make a statement as time allows. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Closed captions will be provided. Indivudals with disabilities requiring other accommodations may contact Corrine Sanders at *csanders@usccr.gov* 10 days prior to the meeting to make their request.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be emailed to *csanders@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit at (202) 618–4158.

Records generated from this meeting may be inspected and reproduced as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Pennsylvania Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Unit at the above email address.

Agenda

Welcome and Roll Call
Discussion: Draft report (partial): Fair Housing and Zoning Practices in Pennsylvania
Public Comment
Adjournment

Exceptional Circumstance: Pursuant to 41 CFR 102–3.150, the notice for this meeting is given fewer than 15 calendar days prior to the meeting because of the exceptional circumstances of report completion timeline.

Dated: January 20, 2023.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2023–01520 Filed 1–25–23; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meetings of the Missouri Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Missouri Advisory Committee (Committee) will hold a meeting on Thursday, February 9, 2023 at 11:30 a.m.–12:30 p.m. Central time. The Committee will continue orientation and begin identifying potential civil rights topics for their first study of the 2022–2026 term.

DATES: The meeting will take place on Thursday, February 9, 2023 at 11:30 a.m. Central Time.

Public Call Information: Dial: (833) 568–8864, Confirmation Code: 161 253 6273.

Zoom Link: https://www.zoomgov.com/j/1612536273.

To join by phone only dial (833) 568–8864; Access Code: 161 253 6273.

FOR FURTHER INFORMATION CONTACT: David Barreras, DFO, at *dbarreras@usccr.gov* or (312) 353–8311.

SUPPLEMENTARY INFORMATION: Members of the public may listen to this discussion through the above call in number. An open comment period will be provided to allow members of the public to make a statement as time allows. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Individual who is deaf, deafblind and hard of hear hearing may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and confirmation code.

Members of the public are entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be mailed to the Regional Programs Unit, U.S. Commission on Civil Rights, 230 S Dearborn, Suite 2120, Chicago, IL 60604. They may also be faxed to the Commission at (312) 353–8324, or emailed to Corrine Sanders at *csanders@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Unit Office, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Mississippi Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Unit at the above email or street address.

Agenda

I. Welcome and roll call
II. Introductions
III. Discuss Civil Rights Topics
IV. Public comment
V. Next steps
VI. Adjournment

Dated: January 20, 2023.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2023–01509 Filed 1–25–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Office of the Secretary

[DOCKET NO.: 221020–0224]

Public Availability of Department of Commerce FY 2020 Service Contract Inventory Data

AGENCY: Office of the Secretary, Department of Commerce.

ACTION: Notice of public availability.

SUMMARY: In accordance with section 743 of Division C of the Consolidated Appropriations Act of 2010, the Department of Commerce (DOC) is publishing this notice to advise the public of the availability of the Fiscal Year (FY) 2020 Service Contract Inventory data, a report that analyzes DOC's FY 2019 Service Contract Inventory and a plan for the analysis of FY 2020 Service Contract Inventory.

ADDRESSES: The Department of Commerce's FY 2020 Service Contract Inventory is included in the government-wide inventory available at: *https://www.acquisition.gov/service-contract-inventory,* which can be filtered to display the FY 2020 inventory for each agency. In addition to the link to access DOC's FY 2020 service contract inventory, the FY 2019 Analysis Report and Plan for analyzing the FY 2020 data is on the Office of Acquisition Management homepage at the following link *https://www.commerce.gov/oam/resources/service-contract-inventory.* OFPP's guidance memo on service contract inventories is available at: *http://www.whitehouse.gov/sites/default/files/omb/procurement/memo/service-contract-inventories-guidance-11052010.pdf.*

FOR FURTHER INFORMATION CONTACT: Questions regarding the service contract inventory should be directed to Virna Winters, Director for Acquisition Policy and Oversight Division at 202–482–4248 or *vwinters@doc.gov.*

SUPPLEMENTAL INFORMATION: The service contract inventory provides information on service contract actions over $150,000 made in FY 2020. The information is organized by function to show how contracted resources are distributed throughout the agency. The inventory has been developed in accordance with guidance on service contract inventories issued on November 5, 2010, by the Office of Management and Budget's Office of Federal Procurement Policy (OFPP).

Olivia J. Bradley,

Senior Procurement Executive and Director, Office of Acquisition Management.

[FR Doc. 2023–01558 Filed 1–25–23; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–834]

Certain Carbon and Alloy Steel Cut-to-Length Plate From Italy: Amended Final Results of Antidumping Duty Administrative Review; 2020–2021

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

SUMMARY: The U.S. Department of Commerce (Commerce) is amending the final results of the administrative review of the antidumping duty order on certain carbon and alloy steel cut-to-length plate from Italy to correct a ministerial error. The period of review (POR) is May 1, 2020, through April 30, 2021.

DATES: Applicable January 26, 2023.

FOR FURTHER INFORMATION CONTACT: Alice Maldonado or David Crespo, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4682 or (202) 482–3693, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 8, 2022, Commerce published the final results of this administrative review.[1] On December 16, 2022, Commerce disclosed its calculations to interested parties and provided interested parties with the opportunity to submit ministerial error comments.[2] On December 20, 2022, NLMK Verona SpA (NVR), a mandatory respondent in this administrative review, submitted an allegation of a ministerial error in the *Final Results.*[3] No other party made an allegation of a ministerial error or provided rebuttal comments.

Legal Framework

Section 751(h) of the Tariff Act of 1930, as amended, (the Act) defines a ''ministerial error'' as including ''errors in addition, subtraction, or other arithmetic function, clerical errors resulting from inaccurate copying, duplication, or the like, and any other unintentional error which the administering authority considers ministerial.'' With respect to final results of administrative reviews, 19 CFR 351.224(e) provides that Commerce ''will analyze any comments received and, if appropriate, correct any ministerial error by amending . . . the final results of review . . . .''

Ministerial Error

We agree with NVR that Commerce made a ministerial error in the *Final Results* within the meaning of section 751(h) of the Act and 19 CFR 351.224(f) by inadvertently failing to update the program to use the revised comparison market calculations, which resulted in an incorrect margin calculation for NVR.[4]

Accordingly, pursuant to 19 CFR 351.224(e), Commerce is amending the *Final Results* to reflect the correction of this ministerial error in the calculation of the weighted-average dumping margin assigned to NVR in the *Final Results,* which changes from 1.47 percent to 0.90 percent.[5] Furthermore, we are amending the rate for the companies not selected for individual examination in this review based on the weighted average dumping margins calculated for the mandatory respondents, which changes from 4.43 percent to 3.95 percent.[6]

Amended Final Results

As a result of correcting the ministerial error, Commerce determines that the following weighted-average dumping margins exist for the period May 1, 2020, through April 30, 2021:

[1] *See Certain Carbon and Alloy Steel Cut-To-Length Plate from Italy: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2020–2021,* 87 FR 75219 (December 8, 2022) (*Final Results*).

[2] *See* Memorandum, ''2020–2021 Antidumping Duty Administrative Review of Certain Carbon and Alloy Steel Cut-To-Length Plate from Italy,'' dated December 16, 2022.

[3] *See* NVR's Letter, ''Ministerial Error Comments,'' dated December 20, 2022.

[4] *See* Memorandum, ''Ministerial Error Allegation,'' dated concurrently with this notice.

[5] *Id.*

[6] *See* Memorandum, ''Amended Calculation of the Cash Deposit Rate for Non-Examined Companies,'' dated concurrently with this notice (Amended Non-Examined Company Calculation Memorandum).

Producer/exporter	Weighted-average dumping margin (percent)
NLMK Verona SpA	0.90
Arvedi Tubi Acciaio	3.95
C.M.T. Construzioni Meccaniche di Taglione Emilio & C. S.a.s	3.95
O.ME.P SpA	3.95
Ofar SpA	3.95
Officine Meccaniche M.A.M. s.r.l	3.95
Sesa SpA	3.95
SZ Acroni D.o.o	3.95
Tim-Cop Doo Temerin	3.95

Disclosure

Commerce intends to disclose the calculations performed in connection with these amended final results of review to parties in this review within five days after public announcement of the amended final results 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).

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b)(1), Commerce shall determine, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the amended final results of this review.

Pursuant to 19 CFR 351.212(b)(1), where the respondent reported the entered value of its U.S. sales, we calculated importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of dumping calculated for the examined sales to the total entered value of the sales for which entered value was reported. Where the respondent did not report entered value, we calculated the entered value in order to calculate the assessment rate. Where either the respondent's weighted-average dumping margin is zero or *de minimis* within the meaning of 19 CFR 351.106(c)(1), or an importer-specific rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

For the companies that were not selected for individual examination, we will assign an assessment rate based on the cash deposit rates calculated for the mandatory respondents in this review, *i.e.,* NVR and Officine Tecnosider s.r.l (OTS), excluding any rates that are zero, *de minimis,* or determined entirely based on adverse facts available.[7] For NVR and the non-selected respondents listed above, the amended final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.[8]

Commerce's ''automatic assessment'' will apply to entries of subject merchandise during the POR produced by companies included in these amended final results of review for which the reviewed companies did not know that the merchandise they sold to the intermediary (*e.g.,* a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the amended final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for NVR and the non-selected respondents listed above will be that established in the amended final results of this review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for previously investigated companies not participating in this review, the cash deposit will continue to be the company-specific rate published for the most recently completed segment of this proceeding; (3) if the exporter is not a firm covered in this review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, then the cash deposit rate will be the rate established for the most recent segment for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 6.08 percent, the all-others rate established in the LTFV investigation.[9] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business

[7] *Id.* The cash deposit rate for OTS remains unchanged from the *Final Results.*

[8] *See* section 751(a)(2)(C) of the Act.

[9] *See Certain Carbon and Alloy Steel Cut-To-Length Plate from Austria, Belgium, France, the Federal Republic of Germany, Italy, Japan, the Republic of Korea, and Taiwan: Amended Final Affirmative Antidumping Determinations for France, the Federal Republic of Germany, the Republic of Korea, and Taiwan, and Antidumping Duty Orders,* 82 FR 24096, 24098 (May 25, 2017).

proprietary information in this segment of the proceeding. Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

This notice is being issued in accordance with sections 751(h) and 777(i)(1) of the Act, and 19 CFR 351.224(e).

Dated: January 19, 2023.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2023–01562 Filed 1–25–23; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–8–2023]

Foreign-Trade Zone 84—Houston, Texas, Application for Reorganization (Expansion of Service Area) Under Alternative Site Framework

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the Port of Houston Authority, grantee of Foreign-Trade Zone 84, requesting authority to reorganize the zone to expand its service area under the alternative site framework (ASF) adopted by the FTZ Board (15 CFR 400.2(c)). The ASF is an option for grantees for the establishment or reorganization of zones and can permit significantly greater flexibility in the designation of new subzones or ''usage-driven'' FTZ sites for operators/users located within a grantee's ''service area'' in the context of the FTZ Board's standard 2,000-acre activation limit for a zone. The application was submitted pursuant to the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the FTZ Board (15 CFR part 400). It was formally docketed on January 23, 2023.

FTZ 84 was approved by the FTZ Board on July 15, 1983 (Board Order 214, 48 FR 34792, August 1, 1983), reorganized under the ASF on January 30, 2015 (Board Order 1964, 80 FR 7838–7839, February 12, 2015), and expanded under the ASF on February 28, 2018 (Board Order 2047, 83 FR 9479, March 6, 2018). The zone currently has a service area that includes Harris County, Texas. There is a separate application pending with the FTZ Board to expand the service area to include Waller County (B–4–2023).

The applicant is now requesting authority to expand the service area of the zone to include Wharton County, Texas, as described in the application. If approved, the grantee would be able to serve sites throughout the expanded service area based on companies' needs for FTZ designation. The application indicates that the proposed expanded service area is adjacent to the Houston Customs and Border Protection Port of Entry.

In accordance with the FTZ Board's regulations, Camille Evans of the FTZ Staff is designated examiner to evaluate and analyze the facts and information presented in the application and case record and to report findings and recommendations to the FTZ Board.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary and sent to: *ftz@trade.gov.* The closing period for their receipt is March 27, 2023. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to April 11, 2023.

A copy of the application will be available for public inspection in the ''Online FTZ Information Section'' section of the FTZ Board's website, which is accessible via *www.trade.gov/ftz.*

For further information, contact Camille Evans at *Camille.Evans@trade.gov.*

Dated: January 23, 2023.

Elizabeth Whiteman,

Acting Executive Secretary.

[FR Doc. 2023–01564 Filed 1–25–23; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Amended Trade Mission Date and Application Deadline to the Cyber Security Business Development Mission to India

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: The United States Department of Commerce, International Trade Administration (ITA), is organizing a Cyber Security Business Development Mission to India on May 22–26, 2023.

• Cyber Security Business Development Mission to India—originally scheduled for May 23–27, 2022, is postponed to May 22–26, 2023. The application deadline is now April 14, 2023.

Background

Cyber Security Business Development Mission to India

The International Trade Administration has determined that to allow for optimal execution of recruitment and event scheduling for the mission, the dates of the mission are postponed from May 23–27, 2022 to May 22–26, 2023. As a result of the shift of the event dates the application deadline is also revised to April 14, 2023. Applications may be accepted after that date if space remains and scheduling constraints permit. Interested U.S. companies and trade associations/organizations that have not already submitted an application are encouraged to do so. The U.S. Department of Commerce will review applications and make selection decisions on a rolling basis in accordance with the 85 FR 12259 (March 2, 2020). The applicants selected will be notified as soon as possible. The proposed schedule is updated as follows:

Proposed Timetable

Sunday, May 21, 2023

- Trade Mission Participants Arrive in New Delhi

Monday, May 22, 2023

- Welcome and Country Briefing
- One-on-One business matchmaking appointments
- Networking Lunch (No-Host)
- One-on-One business matchmaking appointments
- Networking Reception at Deputy Chief of Mission residence (To Be Confirmed (TBC))

Tuesday, May 23, 2023

- Breakfast roundtable with Indian industry groups and associations (TBC)
- Cyber Security event to share best practices and promote participants
- Networking Lunch (No-Host)
- Ministry and other Indian Government Briefings and Meetings
- Transportation from Hotel to Airport Included
- Travel to Mumbai

Wednesday, May 24, 2023

- Welcome Briefing, Mumbai and Maharashtra State
- One-on-One business matchmaking appointments
- Networking Lunch (No-Host)
- One-on-One business matchmaking appointments

- Networking Reception at Consul General residence (TBC)

Thursday, May 25, 2023

- Breakfast roundtable with Indian industry groups and associations (TBC)
- Cyber Security event to share best practices and promote participants
- Networking Lunch (No-Host)
- Indian Government Briefings and Meetings
- Travel to Airport (Not Included)

Friday, May 26, 2023

- SPINOFF STOPS—Bengaluru or Hyderabad
- One-on-One business matchmaking appointments

FOR FURTHER INFORMATION CONTACT: Pompeya Lambrecht, Senior International Trade Specialist, U.S. Commercial Service, Arlington, VA, (703) 235–0102, *pompeya.lambrecht@trade.gov.*

Gemal Brangman,

Director, ITA Events Management Task Force.

[FR Doc. 2023–01506 Filed 1–25–23; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID: 0648–XV190]

Request for Information on Scope of Civil Space Situational Awareness Services

AGENCY: Office of Space Commerce, National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Notice; request for information.

SUMMARY: The U.S. Department of Commerce (Department), via the Office of Space Commerce (OSC) in the National Oceanic and Atmospheric Administration (NOAA), requests additional input from interested parties on OSC's currently planned scope of basic safety services to be provided via the Traffic Management System for Space (TraCSS) program. This input will inform OSC's development of capabilities to share SSA data, information and services to space operators and the public.

DATES: Responses are due on or before February 27, 2023.

ADDRESSES: Interested individuals and organizations should submit written comments on issues addressed in this notification by the following method:

- *By Email to: space.commerce@noaa.gov.* Include the title of this Request for Information (RFI) in the subject line of the message.

Instructions: Response to this RFI is voluntary. Attachments will be accepted in plain text, Microsoft Word, or Adobe PDF formats only. Respondents need not reply to all questions listed. Each individual or institution is requested to submit only one response. All comments received are part of the public record and may be posted, without change, on a Federal website. All identifying information (*e.g.,* name, address) submitted voluntarily by the sender will be publicly accessible. OSC, therefore, requests that no business proprietary information, copyrighted information, or personally identifiable information be submitted in response to this RFI. Please note that the U.S. Government will not pay for response preparation, or for the use of any information contained in the response.

FOR FURTHER INFORMATION CONTACT: John Dyer, Office of Space Commerce, (202) 482–4731; *John.Dyer@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

NOAA's Office of Space Commerce (OSC) is exploring the scope of a basic safety service for space situational awareness (SSA) services of active satellites and debris in preparation of future OSC SSA products. As described in Space Policy Directive-3 (SPD–3) (*https://www.federalregister.gov/d/2018-13521*) and the 2021 United States Space Priorities Framework (*https://www.whitehouse.gov/wp-content/uploads/2021/12/United-States-Space-Priorities-Framework-_-December-1-2021.pdf*), OSC is charged providing basic SSA safety services to all space operators, including conjunction analysis and warning services and making those basic services free of direct user fees while supporting new opportunities for U.S. commercial and non-profit SSA services.

SPD–3 proposed these services be part of an ''Open Architecture Data Repository'' which OSC will now refer to as TraCSS. TraCSS will provide satellite tracking data and associated products and services to support all private and civil space satellite owner/operators (O/Os). TraCSS will ingest the various available data sources and data types for analysis to support the tracking of debris and space objects. The scope of the initial operating capability, the basic safety service, is the primary subject of interest of this RFI.

OSC greatly appreciated responses to prior RFIs, most recently from its RFI published on July 8, 2022 (*https://www.federalregister.gov/documents/2022/07/08/2022-14516/request-for-information-on-industry-needs-for-space-situational-awareness-data-and-value-added*). Since that time, in addition to closely reviewing those responses, OSC has concluded a Memorandum of Agreement with the Department of Defense, formalizing the organizations' relationship for basic SSA, space traffic management (STM), and coordination for civil and commercial entities. OSC also initiated a pilot project to provide spaceflight safety mission assurance to select spacecraft in the medium Earth orbit (MEO) and geostationary Earth orbit (GEO), partnering with the Department of Defense to award seven contracts to U.S. commercial space firms for space situational awareness data analysis.

With this additional insight, OSC has further refined its planned SSA program. OSC has defined its view of the core U.S. Government interests in the provision of basic SSA safety services, and based on that principle, has outlined its anticipated basic SSA safety services and the appropriate mix of commercial and governmental resources to provide those services with greater granularity.

In this RFI, OSC seeks public input broadly from the space community on OSC's definition of core U.S. Government interests in the provision of basic SSA safety services and its refined plan to meet those interests through the TraCSS, including from spacecraft operators, SSA data providers (current and prospective, ground and space-based), SSA analytic and value-added service providers, academia, nonprofit entities, space insurance providers, and the legal community.

II. Description of Basic Safety SSA Services

OSC will provide basic SSA safety services through TraCSS to meet the core U.S. Government interest to further safety, stability, and sustainability in space and increase U.S. commercial leadership in space. Provision of these services is vital for the commercial growth of the American economy and to promote national security. These services can help reconcile the growing use of orbital space with the effective management of this domain.

The scope of basic SSA safety services is limited to those necessary to maintain the safety, stability, and sustainability of the increasingly congested and contested space environment. Basic SSA safety services can include additional services that significantly increase the safety, stability, and sustainability of the space environment. However, OSC will also consider whether the provision of

such services will negatively impact the U.S. SSA industry. The precise demarcation between these basic SSA safety services and other advanced services is driven by present SSA needs and market dynamics. Given the rapid acceleration of technological advances, OSC is committed to continue to observe changes in the marketplace and its underlying technologies, and consider how these developments, along with SSA service needs, might shift the demarcation between basic and advanced services as time goes on. Where a service is judged to be a ''basic service,'' OSC is also interested in whether the service should be provided by the government or should be purchased by the government from a commercial vendor and redistributed to TraCSS users.

The list of orbital safety services below derives from existing practices by the Department of Defense (DoD) and National Aeronautics and Space Administration (NASA), augmented by other services that commercial entities have previously proposed and responses to prior RFIs. ''Included'' indicates that a particular service is being considered for inclusion in the ''free of fee'' service through TraCSS that the OSC intends to provide to any satellite O/O willing to accept the tenets of participation (*e.g.,* the sharing of O/O predicted ephemerides). ''Not Included'' indicates that a particular service is currently not being considered to be provided by the OSC through TraCSS.

(1) Satellite Attributes, Capabilities, Status, and Point of Contact (Included). To maintain a database of primary (protected) assets, which contains basic satellite attributes (approximate dimensions, mass), indicates satellite trajectory change capabilities and current status, and includes 24/7/365 contact information to coordinate mitigation actions for conjunctions between active satellites.

(2) Receipt and Sharing of Predictions O/Os Ephemerides (Included). To receive predicted ephemerides from O/Os, store them in a manner that makes them available for download by other interested O/Os, and use them as the representation of the primary object for collision assessments (CA) screenings, risk assessment, and (when appropriate) mitigation planning.

(3) Routine Collision Assessment (CA) Screening and Conjunction Data Message (CDM) Production (Included). To screen primary objects against a robust satellite catalog, both routinely and on demand; and to generate CDMs for objects that violate the particular physical volumes used for the screening activity.

(4) Special CA Screening and CDM Production (Included). To perform an on-demand screening against a robust satellite catalog for a particular submitted ephemeris or set of ephemerides (usually for a confirmatory or speculative screening as part of maneuver planning).

(5) Data Quality Evaluation (Included). To perform a first-order evaluation of the orbit determination and propagation of the (usually secondary but in principle both) objects' state estimates and co-variances in order to determine whether these inputs are of sufficient quality to serve as a basis for a durable risk assessment calculation

(6) Launch Collision Avoidance (COLA) Screenings (Included). To perform timely screenings of a set of launch nominals against a robust satellite catalog in order to identify specific launch times during a launch window that would create unacceptably high collision risk and therefore should not be used.

(7) O/O Ephemeris Generation and Curation with Covariance (Included). To use O/O telemetry and on-board global positioning system state information, as well as potentially other commercial tracking information, to generate a reliable predicted O/O ephemeris that includes covariance at each ephemeris point and incorporates planned maneuvers (and maneuver execution error).

(8) Re-entry Management and Assessment (Included). To perform re-entry forecasting and event pacing assistance for primary objects undergoing either natural decays or managed deorbits in order to assist the DoD in orchestrating the overall decay and decataloguing process.

(9) Precision Probability of Collision Calculation (Included). To include in each generated CDM a Probability of Collision (PC) calculation that uses more advanced approaches for determining the appropriate hard-body radius (HBR) and employs a calculation technique appropriate to the particular dynamics of the encounter.

(10) Collision Consequence and Debris Production Potentials (Included). To calculate, using an appropriate model, an estimate of the number of trackable debris fragments that would be generated if a particular conjunction were to result in a collision.

(11) Conjunction Object Solution Improvements with Additional Tracking (Included). To obtain additional tracking on the satellites involved in conjunctions of interest (typically the secondary objects), improve these objects' predicted states at the conjunction time of closest approach (TCA), and calculate higher-fidelity risk assessment metrics with this improved information.

(12) Expected Tracking Determination (Included). To generate a pass schedule and probabilities of detection for obtaining additional commercial tracking for conjunction-related objects, so that O/Os can infer the potential benefit of additional tracking and be able to schedule mitigation action decision points appropriately.

(13) Risk Assessment Time History Plots (Included). To produce time-history plots of conjunction risk assessment parameters of interest to allow assessment of conjunction event phasing and stability.

(14) Space Weather Sensitivity (Included). To provide warnings about space weather perturbative events and to assess the effects the perturbation-induced atmospheric density uncertainty will have on conjunction risk assessment parameters.

(15) Fusion of CA Products (Not Included). To combine CA products, such as CDMs or predicted ephemerides, from multiple providers into a single, higher-fidelity product that can then be used to enable CA risk assessment.

(16) PC Variability (Not Included). By considering bounding scale factors for the ''true'' size of the primary and secondary objects' covariances, to generate a matrix of possible PC values to allow risk assessors to assign a more conservative ''high-water-mark'' PC value.

(17) Additional Concierge Services (Not Included). To provide on-call, personalized telephone support at all times by CA subject matter experts to assist O/Os with the interpretation of conjunction screening and risk assessment products.

(18) Anomaly Resolution (Not Included). To arrange for the obtaining and interpretation of anomaly resolution SSA products, such as point signatures (radar cross-section and/or photometry), time-series satellite signatures, and radar and optical imaging.

(19) Design-time Assistance for Improved CA (Not Included). During the satellite construction and mission design phase, to assist O/Os in the prudent selection of mission orbits, satellite construction decisions to produce favorable light pollution properties, and the proper build-out of effective O/O ephemeris construction and CA software and procedures.

(20) Maneuver Trade Space (Not Included). To assemble a visual aid that identifies particular maneuver times and intensities (and, for some maneuver types, durations) to achieve the desired

level of conjunction risk reduction (for both the main conjunction and any other conjunctions that the particular maneuver might introduce).

(21) Optimized Maneuver Recommendations (Not Included). In addition to the parameters in service (20) above, to include satellite contact restrictions, spacecraft maneuverability limitations, and O/O optimality preferences to construct a recommended maneuver plan to mitigate the main conjunction and ensure against the creation of any serious derivative conjunctions.

(22) Breakup Detection, Tracking, and Cataloguing (Not Included). To commission routine surveillance tracking to detect satellite break-ups; and upon the detection of a break-up, to increase supplementary surveillance tracking to collect break-up uncorrelated tracks (UCT), perform UCT processing, obtain dedicated tracking on new candidate objects, and suggest/perform cataloging actions for stable candidates for which the country of origin can be established.

(23) Maneuver Detection and Processing (Not Included). To commission heightened surveillance tracking on maneuverable objects; execute maneuver detection algorithms against the tracking obtained from such heightened surveillance; and for objects for which maneuvers are detected, perform appropriate maneuver processing to create a durable post-maneuver state estimate.

III. Questions To Inform Development of Basic SSA Safety Services

OSC seeks responses to three categories of questions, and invites any member of the public to provide input:

A. Scope of Proposed Basic SSA Safety Services;

B. Impacts of Proposed Basic SSA Safety Services on Commercial SSA Providers;

C. Tenets of Participation and Receipt of Basic SSA Safety Services; and

D. General Feedback.

Respondents are encouraged to explain how the capabilities to be provided by OSC's TraCSS can be structured to enable a competitive and burgeoning U.S. commercial space sector. Responses may also explain how the U.S. Government can work with industry and international partners in the development of open, transparent, and credible international standards, policies, and practices that will aid in the provision of these basic SSA safety services.

A. Scope of Proposed Basic SSA Safety Services

OSC seeks to clearly define and communicate the scope of basic safety SSA services to enable industry innovation of advanced services. OSC seeks responses regarding which SSA services should be included as part of TraCSS. OSC understands that the need to provide certain services through TraCSS may change over time. Similarly, some services may be necessary to include in the TraCSS initial offering only and others should be added in the future. For each of the services discussed above, OSC is seeking public input about whether the service should be included in TraCSS, and if so, whether it should be part of the initial offering or added in the future. Additionally, OSC seeks input on whether the services should be developed by the government or purchased from commercial vendors and redistributed. Furthermore, OSC invites comment on the following questions for each of the services:

- Does the proposed basic safety SSA service provide sufficient data to allow ongoing operations of orbital assets at a level equal to or beyond that currently provided by the DoD?
- What proposed basic safety SSA services are essential to your ongoing operations? If the U.S. Government were to prioritize the delivery of individual services as part of TraCSS, which ones should be provided soonest?
- What, if any, additional capabilities beyond those currently provided by the DoD should be included in the TraCSS?
- Are there any additional capabilities not listed that should be included in the basic SSA safety service to provide a baseline level of safety for owners and operators?
- Where applicable, at what level or how often should the service be performed? For example, comments may address how often routine collision assessments should be conducted as part of the basic SSA safety service. DoD currently provides these assessments three times a day. How often should OSC's basic safety SSA service provide these assessments?

B. Impacts of Proposed Basic SSA Safety Services on Commercial SSA Providers

OSC's provision of basic SSA safety services through TraCSS is intended to advance safety, stability, and sustainability in space and help the domestic commercial SSA industry grow. OSC is evaluating the potential impacts that the basic SSA safety services provided through TraCSS may have on the commercial SSA industry. OSC is seeking public input on whether there are any concerns with respect to commercial SSA providers with their own services or other value-added providers that may rely on governmental SSA basic safety services. Furthermore, OSC invites comment on the following questions:

- Are any of the basic SSA safety services readily available from the current U.S. SSA industry? If so, is the service affordable to owners and operators of spacecraft?
- For commercial SSA service providers, does the current SSA capability offered by the DoD have any impacts on your current or future product offerings?
- For commercial SSA service providers, do any of the basic SSA safety services identified for inclusion in TraCSS have any impacts or implications on your current or future product offerings? If so, which services proposed to be part of TraCSS would have an impact on your offerings and why?
- For O/Os, are any of the basic SSA safety services identified for inclusion in TraCSS duplicative of what O/Os of spacecraft are already responsible for obtaining or providing?
- Are there unique advantages to the government purchasing and redistributing certain commercial services rather than leaving these to the commercial marketplace?

C. Tenets of Participation and Receipt of Basic SSA Safety Services

OSC is seeking public input regarding what should be required to receive ''free of fee'' basic SSA safety services through TraCSS. OSC recognizes that certain basic SSA safety services should be made publicly available. For example, space objects from a current DoD catalog that are not sensitive to national security are currently made accessible to the public through the *Space-Track.org* website. OSC also recognizes that other basic SSA safety services should be available to all owners and operators. In response to previous RFIs, some comments suggested that OSC require owners and operators to provide operational information or act in good faith in response to the basic SSA safety services in order to participate in TraCSS. OSC also invites comment on the following questions:

- Which basic SSA safety services identified for inclusion in TraCSS should be made publicly available?
- What, if any, information should owners and operators of spacecraft be

required to provide to OSC to participate in TraCSS?

- What, if any, actions should owners and operators agree to take to participate in TraCSS as part of the tenets of participation?
- What should happen when owners or operators fail to provide the relevant information to OSC or fail to take actions consistent with the tenets of participation?

D. General Feedback

OSC welcomes feedback about any other related topics. For example, are there any matters not discussed above that OSC should or must consider before it provides basic SSA safety services through TraCSS?

IV. How To Submit Your Response

To facilitate review of your responses, please reference the subject of the RFI in your response. You may respond to some or all of the topic areas covered in the RFI, and you can suggest other factors or relevant questions. You may also include links to online material or interactive presentations. If including data sets, please make the data available in a downloadable, machine-readable format with accompanying metadata.

Please note that this is an RFI only. In accordance with the implementing regulations of the Paperwork Reduction Act of 1995 (PRA), specifically 5 CFR 1320.3(h)(4), this general solicitation is exempt from the PRA. Facts or opinions submitted in response to general solicitations of comments from the public, published in the **Federal Register** or other publications, regardless of the form or format thereof, provided that no person is required to supply specific information pertaining to the commenter, other than that necessary for self-identification, as a condition of the agency's full consideration, are not generally considered information collections and therefore not subject to the PRA.

This RFI is issued solely for information and planning purposes; it does not constitute a request for proposals, applications, proposal abstracts, or quotations. This RFI does not commit the U.S. Government to contract for any supplies or services or make a grant award. Further, we are not seeking proposals through this RFI and will not accept unsolicited proposals. Choosing not to respond to this RFI does not preclude participation in any future procurement, if conducted.

Dated: January 23, 2023.

Richard DalBello,

Director, Office of Space Commerce, National Oceanic and Atmospheric Administration.

[FR Doc. 2023–01556 Filed 1–25–23; 8:45 am]

BILLING CODE 3510–HR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC680]

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Geophysical Surveys Related to Oil and Gas Activities in the Gulf of Mexico

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

ACTION: Notice of issuance of letter of authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA), as amended, its implementing regulations, and NMFS' MMPA Regulations for Taking Marine Mammals Incidental to Geophysical Surveys Related to Oil and Gas Activities in the Gulf of Mexico, notification is hereby given that a Letter of Authorization (LOA) has been issued to Echo Offshore LLC (Echo) for the take of marine mammals incidental to geophysical survey activity in the Gulf of Mexico.

DATES: The LOA is effective from the date of issuance through June 31, 2023.

ADDRESSES: The LOA, LOA request, and supporting documentation are available online at: *www.fisheries.noaa.gov/action/incidental-take-authorization-oil-and-gas-industry-geophysical-survey-activity-gulf-mexico.* In case of problems accessing these documents, please call the contact listed below (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Rachel Wachtendonk, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Background

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

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

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

On January 19, 2021, we issued a final rule with regulations to govern the unintentional taking of marine mammals incidental to geophysical survey activities conducted by oil and gas industry operators, and those persons authorized to conduct activities on their behalf (collectively ''industry operators''), in Federal waters of the U.S. Gulf of Mexico (GOM) over the course of 5 years (86 FR 5322, January 19, 2021). The rule was based on our findings that the total taking from the specified activities over the 5-year period will have a negligible impact on the affected species or stock(s) of marine mammals and will not have an unmitigable adverse impact on the availability of those species or stocks for subsistence uses. The rule became effective on April 19, 2021.

Our regulations at 50 CFR 217.180 *et seq.* allow for the issuance of LOAs to industry operators for the incidental take of marine mammals during geophysical survey activities and prescribe the permissible methods of taking and other means of effecting the least practicable adverse impact on marine mammal species or stocks and their habitat (often referred to as mitigation), as well as requirements

pertaining to the monitoring and reporting of such taking. Under 50 CFR 217.186(e), issuance of an LOA shall be based on a determination that the level of taking will be consistent with the findings made for the total taking allowable under these regulations and a determination that the amount of take authorized under the LOA is of no more than small numbers.

Summary of Request and Analysis

Echo plans to conduct a 2D high resolution seismic survey in Lease Block G14576 (Main Pass Area 91). Echo plans to use a single, 20-cubic inch airgun, in addition to three other high-resolution geophysical (HRG) acoustic sources. Please see Echo's application for additional detail.

Consistent with the preamble to the final rule, the survey effort proposed by Echo in its LOA request was used to develop LOA-specific take estimates based on the acoustic exposure modeling results described in the preamble (86 FR 5322, 5398, January 19, 2021). In order to generate the appropriate take number for authorization, the following information was considered: (1) survey type; (2) location (by modeling zone [1]); (3) number of days; and (4) season.[2] The acoustic exposure modeling performed in support of the rule provides 24-hour exposure estimates for each species, specific to each modeled survey type in each zone and season.

Exposure modeling results were generated using the single airgun and HRG proxies. Because those results assume use of a 90-in^3 airgun and side-scan sonar, multibeam echosounder, and sub-bottom profiler respectively, the take numbers authorized through this LOA are considered conservative (*i.e.,* they likely overestimate take) due to differences in the sound source planned for use by Echo, as compared to those modeled for the rule. The survey is planned to occur for 2 days in Zone 2, with the airguns being used on only one of the days. The season is not known in advance. Therefore, the take estimates for each species are based on the season that has the greater value for the species (*i.e.,* winter or summer).

Based on the results of our analysis, NMFS has determined that the level of taking expected for this survey and authorized through the LOA is consistent with the findings made for the total taking allowable under the regulations. See Table 1 in this notice and Table 9 of the rule (86 FR 5322, January 19, 2021).

Small Numbers Determination

Under the GOM rule, NMFS may not authorize incidental take of marine mammals in an LOA if it will exceed ''small numbers.'' In short, when an acceptable estimate of the individual marine mammals taken is available, if the estimated number of individual animals taken is up to, but not greater than, one-third of the best available abundance estimate, NMFS will determine that the numbers of marine mammals taken of a species or stock are small. For more information please see NMFS' discussion of the MMPA's small numbers requirement provided in the final rule (86 FR 5322, 5438, January 19, 2021).

The take numbers for authorization, which are determined as described above, are used by NMFS in making the necessary small numbers determinations, through comparison with the best available abundance estimates (see discussion at 86 FR 5322, 5391, January 19, 2021). For this comparison, NMFS' approach is to use the maximum theoretical population, determined through review of current stock assessment reports (SAR; *www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments*) and model-predicted abundance information (*https://seamap.env.duke.edu/models/Duke/GOM/*). For the latter, for taxa where a density surface model could be produced, we use the maximum mean seasonal (*i.e.,* 3-month) abundance prediction for purposes of comparison as a precautionary smoothing of month-to-month fluctuations and in consideration of a corresponding lack of data in the literature regarding seasonal distribution of marine mammals in the GOM. Information supporting the small numbers determinations is provided in Table 1.

TABLE 1—TAKE ANALYSIS

Species	Authorized take [1]	Abundance [2]	Percent abundance
Rice's whale [3]	0	51	n/a
Sperm whale	0	2,207	n/a
Kogia spp	0	4,373	n/a
Beaked whales	0	3,768	n/a
Rough-toothed dolphin	[4] 0	4,853	n/a
Bottlenose dolphin	32	176,108	0.0
Clymene dolphin	0	11,895	n/a
Atlantic spotted dolphin	[5] 26	74,785	0.0
Pantropical spotted dolphin	0	102,361	n/a
Spinner dolphin	0	25,114	n/a
Striped dolphin	0	5,229	n/a
Fraser's dolphin	0	1,665	n/a
Risso's dolphin	0	3,764	n/a
Melon-headed whale	0	7,003	n/a
Pygmy killer whale	0	2,126	n/a
False killer whale	0	3,204	n/a
Killer whale	0	267	n/a
Short-finned pilot whale	0	1,981	n/a

[1] Scalar ratios were not applied in this case due to brief survey duration.

[2] Best abundance estimate. For most taxa, the best abundance estimate for purposes of comparison with take estimates is considered here to be the model-predicted abundance (Roberts *et al.,* 2016). For those taxa where a density surface model predicting abundance by month was produced, the maximum mean seasonal abundance was used. For those taxa where abundance is not predicted by month, only mean annual abundance is available. For the killer whale, the larger estimated SAR abundance estimate is used.

[1] For purposes of acoustic exposure modeling, the GOM was divided into seven zones. Zone 1 is not included in the geographic scope of the rule.

[2] For purposes of acoustic exposure modeling, seasons include Winter (December–March) and Summer (April–November).

[3] The final rule refers to the GOM Bryde's whale (*Balaenoptera edeni*). These whales were subsequently described as a new species, Rice's whale (*Balaenoptera ricei*) (Rosel *et al.,* 2021).

[4] Modeled take of 1 decreased to 0. For rough-toothed dolphin, use of the exposure modeling produces results that are smaller than the average GOM group size (*i.e.,* estimated exposure value of 1, relative to assumed average group size of 14) (Maze-Foley and Mullin, 2006). NMFS' typical practice is to increase exposure estimates to the assumed average group size for a species in order to ensure that, if the species is encountered, exposures will not exceed the authorized take number. However, given the very short survey duration and small estimated exposure value NMFS has determined that is unlikely the species would be encountered at all. As a result, in this case NMFS has not authorized take for this species.

[5] Modeled take of 7 increased to account for potential encounter with group of average size (Maze-Foley and Mullin, 2006).

Based on the analysis contained herein of Echo's proposed survey activity described in its LOA application and the anticipated take of marine mammals, NMFS finds that small numbers of marine mammals will be taken relative to the affected species or stock sizes (*i.e.,* less than one-third of the best available abundance estimate) and therefore the taking is of no more than small numbers.

Authorization

NMFS has determined that the level of taking for this LOA request is consistent with the findings made for the total taking allowable under the incidental take regulations and that the amount of take authorized under the LOA is of no more than small numbers. Accordingly, we have issued an LOA to Echo authorizing the take of marine mammals incidental to its geophysical survey activity, as described above.

Dated: January 23, 2023.

Kimberly Damon-Randall,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2023–01563 Filed 1–25–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC718]

Marine Mammals; File No. 27027

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that the Glacier Bay National Park and Preserve (Philip Hooge, Responsible Party), has applied in due form for a permit to conduct research on humpback (*Megaptera novaeangliae*), killer (*Orcinus orca*), minke (*Balaenoptera acutorostrata*), and gray (*Eschrichtius robustus*) whales.

DATES: Written, telefaxed, or email comments must be received on or before February 27, 2023.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the ''Features'' box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 27027 from the list of available applications. These documents are also available upon written request via email to *NMFS.Pr1Comments@noaa.gov.*

Written comments on this application should be submitted via email to *NMFS.Pr1Comments@noaa.gov.* Please include File No. 27027 in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request via email to *NMFS.Pr1Comments@noaa.gov.* The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Erin Markin or Carrie Hubard, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

The applicant proposes to study humpback, killer, minke, and gray whales to gather information on their ecology, behavior, and population status in southeastern Alaska, including Glacier Bay National Park and Preserve. Individuals may be closely approached for vessel surveys, photo-identification, behavioral observation, collection of feces or sloughed skin, and passive acoustic recording. The maximum annual approaches to whales will be 2050 humpback whales, 500 killer whales, 20 minke whales, and 20 gray whales. Biopsy sampling of 50 humpback whales, annually, is also requested. Unidentified cetacean, pinniped, and salmonid species parts may be collected from predation events. Biological samples may be imported or exported. The requested duration of the permit is 5 years.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: January 23, 2023.

Julia M. Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2023–01548 Filed 1–25–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No.: PTO–P–2023–0001]

Public Meeting on Innovation Driven by Artificial Intelligence

AGENCY: United States Patent and Trademark Office, Department of Commerce.

ACTION: Notice of public meeting.

SUMMARY: The United States Patent and Trademark Office (USPTO) plays an important role in incentivizing and protecting innovation, including innovation driven by artificial intelligence (AI), to ensure continued U.S. leadership in AI and other emerging technologies (ET). The USPTO's Texas Regional Office will host a public meeting on innovation driven by AI on February 8, 2023, at 11 a.m. CT. The meeting will be held in collaboration with the Dallas Bar Association (DBA) Intellectual Property (IP) section and the State Bar of Texas IP section. This will be the third meeting in the USPTO's AI/ET Partnership Series. First announced in June 2022, the AI/ET Partnership provides an opportunity to bring stakeholders together through a series of engagements to share ideas, feedback,

experiences, and insights on the intersection of IP and AI/ET.

DATES: The public meeting will be held on February 8, 2023, from 11 a.m. to 3 p.m. CT. Persons seeking to speak at the listening session during the meeting must register by February 2, 2023, at the website in **ADDRESSES**.

ADDRESSES: Register at *www.uspto.gov/about-us/events/aiet-partnership-series-3-ai-driven-innovation.* The public meeting will be held virtually and in person at the Arts District Mansion, 2101 Ross Ave., Dallas, TX 75201. Because in-person attendance is limited, anyone wishing to attend in person is advised to register early at *www.uspto.gov/about-us/events/aiet-partnership-series-3-ai-driven-innovation.* All major entrances to the building are accessible to people with disabilities.

FOR FURTHER INFORMATION CONTACT: Srilakshmi Kumar at *srilakshmi.kumar@uspto.gov.* You can also send inquiries to *AIPartnership@uspto.gov.* Please direct all media inquiries to the Office of the Chief Communications Officer at 571–272–8400.

SUPPLEMENTARY INFORMATION: The USPTO held its inaugural AI/ET Partnership meeting in June 2022. This meeting provided an overview of the National AI Initiative and the USPTO's efforts on AI/ET, including the USPTO AI Patent Dataset. The meeting also discussed important patent policy issues related to AI/ET inventions, such as subject matter eligibility, disclosure, and inventorship.

The USPTO held its second AI/ET Partnership meeting in September 2022. This meeting focused on AI and biotechnology, and explored current trends highlighting the convergence of technologies in the life sciences and AI, as well as the IP considerations arising from this technological convergence.

The USPTO will hold its third AI/ET Partnership meeting virtually and in person at the Arts District Mansion in Dallas, Texas, on Wednesday, February 8. This meeting is being hosted by the USPTO's Texas Regional Office in collaboration with the DBA IP section and the State Bar of Texas IP section.

During the meeting, panelists from the USPTO and diverse stakeholders from academia, industry, and law firms will explore various IP policy issues with respect to AI-driven innovation. Panel discussions will cover: (1) the current state of AI-driven innovation, (2) ways to address inventions created with significant AI contributions, and (3) unanticipated IP challenges from AI-driven innovation. The meeting will also include a public listening session.

Instructions and Information on the Public Meeting

The public meeting will be held virtually and in person at the Arts District Mansion, 2101 Ross Ave., Dallas, TX 75201, from 11 a.m. to 3 p.m. CT. The agenda is available on the USPTO website at *www.uspto.gov/about-us/events/aiet-partnership-series-3-ai-driven-innovation.* Registrations to attend the meeting and requests to speak at the listening session may be submitted on the same web page.

Katherine K. Vidal,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2023–01645 Filed 1–25–23; 8:45 am]

BILLING CODE 3510–16–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; AmeriCorps Forbearance Request for National Service Form

AGENCY: Corporation for National and Community Service.

ACTION: Notice of information collection; request for comment.

SUMMARY: The Corporation for National and Community Service, operating as AmeriCorps, has submitted a public information collection request (ICR) entitled National Servicer Trust Interest Payment Request form for review and approval in accordance with the Paperwork Reduction Act.

DATES: Written comments must be submitted to the individual and office listed in the **ADDRESSES** section by February 27, 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.

FOR FURTHER INFORMATION CONTACT: Copies of this ICR, with applicable supporting documentation, may be obtained by calling the Corporation for National and Community Service, Nahid Jarrett, at 202–606–6753 or by email to *njarrett@cns.gov.*

SUPPLEMENTARY INFORMATION: The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of CNCS, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions;
- Propose ways to enhance the quality, utility, and clarity of the information to be collected; and
- Propose ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments

A 60-day Notice requesting public comment was published in the **Federal Register** on Wednesday, November 16, 2022 at Vol. 87 FR 68684. This comment period ended January 17, 2023. No public comments were received from this Notice.

Title of Collection: National Service Trust AmeriCorps Interest Payment Request form.

OMB Control Number: 3045–0030. Type of Review: Renewal.

Respondents/Affected Public: Individuals using a Segal AmeriCorps Education Award, and authorized school officials and qualified student loan holders.

Total Estimated Number of Annual Responses: 13,182.

Total Estimated Number of Annual Burden Hours: 2,197.

Abstract: NCS Forbearance Request for National Service Form certifies that AmeriCorps members are eligible for forbearance based on their enrollment in a national service position. AmeriCorps members use the form to request forbearance from their loan servicer. CNCS seeks to renew the current information collection request. This information collection is not required to be considered for obtaining grant funding support. AmeriCorps seeks to renew the current information collection; it will be used in the same manner as the existing application. AmeriCorps also seeks to continue using the current application until the revised application is approved by OMB. The

current application is due to expire on January 31, 2023.

Jerry Prentice,

Director, National Service Trust.

[FR Doc. 2023–01590 Filed 1–25–23; 8:45 am]

BILLING CODE 6050–28–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Day of Service Application Instructions (MLK + 911)

AGENCY: Corporation for National and Community Service.

ACTION: Notice of information collection; request for comment.

SUMMARY: The Corporation for National and Community Service, operating as AmeriCorps, has submitted a public information collection request (ICR) entitled Day of Service Application Instructions (MLK + 911) for review and approval in accordance with the Paperwork Reduction Act.

DATES: Written comments must be submitted to the individual and office listed in the **ADDRESSES** section by February 27, 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.

FOR FURTHER INFORMATION CONTACT: Copies of this ICR, with applicable supporting documentation, may be obtained by calling AmeriCorps, Sharron Tendai, at 202–606–3904 or by email to *stendai@cns.gov.*

SUPPLEMENTARY INFORMATION: The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of CNCS, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions;
- Propose ways to enhance the quality, utility, and clarity of the information to be collected; and
- Propose ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments

A 60-day Notice requesting public comment was published in the **Federal Register** on November 14, 2022, at Vol. 87 FR Page Number 68139. This comment period ended January 13, 2023. Zero public comments were received from this Notice.

Title of Collection: Day of Service Application Instructions (MLK + 911).

OMB Control Number: 3045–0180.

Type of Review: Renewal.

Respondents/Affected Public: Individuals, Households, Businesses, Organizations, State, Local and Tribal Governments.

Total Estimated Number of Annual Responses: 70.

Total Estimated Number of Annual Burden Hours: 1,400.

Abstract: This information collection seeks feedback on AmeriCorps Day of Service Application Instructions for future MLK and 9/11 Day of Service grant competitions after the expiration of the current Application Instructions. AmeriCorps seeks to renew the current information collection without revisions. The information collection will be used in the same manner as the existing application. AmeriCorps also seeks to continue using the current application until the revised application is approved by OMB. The current application is due to expire on January 31, 2023.

Margery Ansara,

Acting Chief of Program Operations.

[FR Doc. 2023–01508 Filed 1–25–23; 8:45 am]

BILLING CODE 6050–28–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Voucher and Payment Request Form

AGENCY: Corporation for National and Community Service.

ACTION: Notice of information collection; request for comment.

SUMMARY: The Corporation for National and Community Service, operating as AmeriCorps, has submitted a public information collection request (ICR) entitled Voucher and Payment Request form for review and approval in accordance with the Paperwork Reduction Act.

DATES: Written comments must be submitted to the individual and office listed in the **ADDRESSES** section by February 27, 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.

FOR FURTHER INFORMATION CONTACT: Copies of this ICR, with applicable supporting documentation, may be obtained by calling the Corporation for National and Community Service, Nahid Jarrett, at 202–606–6753 or by email to *njarrett@cns.gov.*

SUPPLEMENTARY INFORMATION: The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of CNCS, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions;
- Propose ways to enhance the quality, utility, and clarity of the information to be collected; and
- Propose ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments

A 60-day Notice requesting public comment was published in the **Federal Register** on Wednesday, January 20, 2023 at Vol. 87 FR 68683. This comment period ended January 17, 2023. No public comments were received from this Notice.

Title of Collection: National Service Trust AmeriCorps Voucher and Payment Request form.

OMB Control Number: 3045–0014.

Type of Review: Renewal.

Respondents/Affected Public: Individuals using a Segal AmeriCorps Education Award, and authorized school officials and qualified student loan holders.

Total Estimated Number of Annual Responses: 34,385.

Total Estimated Number of Annual Burden Hours: 2,865.

Abstract: The National Service Trust AmeriCorps Voucher and Payment Request Form is used to make payments to repay qualified student loans and to pay for the cost of attending eligible post-secondary educational institutions and approved School-to-Work programs. Prior to making the payments, AmeriCorps will review information from the forms and compare it to information taken from the AmeriCorsp members' education award account(s) to ensure that the payments meet the requirements of the law. This information collection is not required to be considered for obtaining grant funding support. AmeriCorps seeks to renew the current information collection; it will be used in the same manner as the existing application. AmeriCorps also seeks to continue using the current application until the revised application is approved by OMB. The current application is due to expire on January 31, 2023.

Jerry Prentice,

Director, National Service Trust.

[FR Doc. 2023–01594 Filed 1–25–23; 8:45 am]

BILLING CODE 6050–28–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Interest Payment Request Form

AGENCY: Corporation for National and Community Service.

ACTION: Notice of information collection; request for comment.

SUMMARY: The Corporation for National and Community Service, operating as AmeriCorps, has submitted a public information collection request (ICR) entitled National Servicer Trust Interest Payment Request form for review and approval in accordance with the Paperwork Reduction Act.

DATES: Written comments must be submitted to the individual and office listed in the **ADDRESSES** section by February 27, 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.

FOR FURTHER INFORMATION CONTACT: Copies of this ICR, with applicable supporting documentation, may be obtained by calling the Corporation for National and Community Service, Nahid Jarrett, at 202–606–6753 or by email to *njarrett@cns.gov.*

SUPPLEMENTARY INFORMATION: The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of CNCS, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions;
- Propose ways to enhance the quality, utility, and clarity of the information to be collected; and
- Propose ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments

A 60-day Notice requesting public comment was published in the **Federal Register** on Wednesday, November 16, 2022 at Vol. 87 FR 68684. This comment period ended January 16, 2023. No public comments were received from this Notice.

Title of Collection: National Service Trust AmeriCorps Interest Payment Request form.

OMB Control Number: 3045–0053. Type of Review: Renewal.

Respondents/Affected Public: Individuals using a Segal AmeriCorps Education Award, and authorized school officials and qualified student loan holders.

Total Estimated Number of Annual Responses: 320.

Total Estimated Number of Annual Burden Hours: 27.

Abstract: After an AmeriCorps member completes a period of national and community service, the individual receives an education award that can be used to pay against qualified student loans or pay for current post-secondary educational expenses. AmeriCorps members use the AmeriCorps Interest Payment Request Form to request a payment of accrued interest on qualified student loans and to authorize the release of loan information to the National Service Trust; schools and lenders verify eligibility for the payments; and both parties verify certain legal requirements. This information collection is not required to be considered for obtaining grant funding support. AmeriCorps seeks to renew the current information collection; it will be used in the same manner as the existing application. AmeriCorps also seeks to continue using the current application until the revised application is approved by OMB. The current application is due to expire on January 31, 2023.

Jerry Prentice,

Director, National Service Trust.

[FR Doc. 2023–01592 Filed 1–25–23; 8:45 am]

BILLING CODE 6050–28–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; AmeriCorps All-Partner Training and Technical Assistance Survey

AGENCY: Corporation for National and Community Service.

ACTION: Notice of information collection; request for comment.

SUMMARY: The Corporation for National and Community Service, operating as AmeriCorps, has submitted a public information collection request (ICR) for review and approval in accordance with the Paperwork Reduction Act.

DATES: Written comments must be submitted to the individual and office listed in the **ADDRESSES** section by February 27, 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.

FOR FURTHER INFORMATION CONTACT: Copies of this ICR, with applicable supporting documentation, may be obtained by calling AmeriCorps, Nancy Ferguson, at 202–569–1395 or by email to *nferguson@cns.gov.*

SUPPLEMENTARY INFORMATION: The OMB is particularly interested in comments which:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of CNCS, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions;

• Propose ways to enhance the quality, utility, and clarity of the information to be collected; and

• Propose ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments

A 60-day Notice requesting public comment was published in the **Federal Register** on November 11, 2022 at 65753–65754. This comment period ended January 3, 2023. Three public comments were received from this Notice. Each commenter expressed support for conducting the training and technical assistance surveys and believed the burden to be reasonable. Most comments related to the wording of some of the survey questions, and AmeriCorps generally re-worded these questions to clarify what we are asking and to fix some mistakes. Some suggestions were made to add information to the demographic questions (*e.g.,* additional options to select, information to help respondents quickly identify their regions). For the most part, these changes were made. For a few questions, we added an ''other'' option to elicit suggestions for additional training topics we might not have thought of, in addition to the main topics listed in the original survey. Two commenters suggested we consider providing a paper copy of the survey ts respondents can consider the questions ahead of time before completing the electronic survey. We will provide a link on the website to a printable copy of the survey.

Title of Collection: AmeriCorps All-Partner Training and Technical Assistance Survey.

OMB Control Number: 3045–NEW.

Type of Review: New.

Respondents/Affected Public: AmeriCorps grantees and sponsors who have VISTA, AmeriCorps State and National, AmeriCorps Seniors, and Days of Service/Volunteer Generation Fund awards.

Total Estimated Number of Annual Responses: 101,000 responses.

Total Estimated Number of Annual Burden Hours: 14,083.

Abstract: This new collection represents 3 different surveys: The AmeriCorps All-Partner Training and Technical Assistance (TTA) Survey is designed to gather information about the experiences our grantees and sponsors have with our current TTA so that we can improve how we develop and provide TTA to our partners in the future. The changes brought on with the Agency's restructuring, rebranding, and the website overhaul have affected the TTA we provide to our grantees and sponsors. This survey is meant to provide a current baseline for how grantees/sponsors access, use, and receive our current TTA. Grantees and sponsors, as the target audience for the training we develop, have insight that can help AmeriCorps improve our trainings and our internal processes around training development. The Post-Training eLearning Survey and the Post-Training Live Webinar Survey are designed to collect feedback on specific trainings immediately after they are taken by granees/sponsors. These surveys are an essential piece to effective instructional design and training because they allow us to get direct feedback on individual trainings from their target audience. This feedback will help us correct errors, clarify issues, determine what other trianing needs exist—all of which will help us improve the quality of training we provide to grantees and sponsors. Together, these surveys will help us better support the recipients of AmeriCorps awards to manage their awards more effectively and efficiently. This is a new information collection.

Margery Ansara,

Acting Chief of Program Operations.

[FR Doc. 2023–01511 Filed 1–25–23; 8:45 am]

BILLING CODE 6050–28–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; NCCC Member Experience Survey

AGENCY: Corporation for National and Community Service.

ACTION: Notice of information collection; request for comment.

SUMMARY: The Corporation for National and Community Service, operating as AmeriCorps, has submitted a public information collection request (ICR) entitled NCCC Member Experience Survey for review and approval in accordance with the Paperwork Reduction Act.

DATES: Written comments must be submitted to the individual and office listed in the **ADDRESSES** section by February 27, 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.

FOR FURTHER INFORMATION CONTACT: Copies of this ICR, with applicable supporting documentation, may be obtained by calling AmeriCorps, Michael Ketover, by email to *mketover@cns.gov* or by phone at 202–873–4574.

SUPPLEMENTARY INFORMATION: The OMB is particularly interested in comments which:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of CNCS, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions;

• Propose ways to enhance the quality, utility, and clarity of the information to be collected; and

• Propose ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments

A 60-day Notice requesting public comment was published in the **Federal Register** on October 27, 2022 at 65042–65043. This comment period ended December 27, 2022. No public comments were received from this Notice.

Title of Collection: NCCC Member Experience Survey.

OMB Control Number: 3045–0191.

Type of Review: Renewal.

Respondents/Affected Public: Individuals.

Total Estimated Number of Annual Responses: 600.

Total Estimated Number of Annual Burden Hours: 150.

Abstract:. The AmeriCorps NCCC Member Experience Survey is completed by AmeriCorps members who have been a part of an AmeriCorps NCCC team. Each year, AmeriCorps NCCC engages teams of members in projects in communities across the United States. Service projects, which typically last from six to eight weeks, address critical needs in natural and other disasters, infrastructure improvement, environmental stewardship and conservation, energy conservation, and urban and rural development. Members construct and rehabilitate low-income housing, respond to natural disasters, clean up streams, help communities develop emergency plans, and address other local needs. AmeriCorps seeks to renew the current information collection. AmeriCorps also seeks to continue using the current application until the revised application is approved by OMB. The current application is due to expire on January 31, 2023.

Walter Goodson,

Director, AmeriCorps NCCC.

[FR Doc. 2023–01559 Filed 1–25–23; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Department of the Air Force Scientific Advisory Board; Notice of Federal Advisory Committee Meeting

AGENCY: Department of the Air Force Scientific Advisory Board, Department of Defense.

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The Department of Defense (DoD) is publishing this notice to announce that the following Federal Advisory Committee meeting of the Department of the Air Force Scientific Advisory Board will take place.

DATES: Closed to the public. 24 January 2023 from 8:00 a.m. to 2:30 p.m. Pacific Time.

ADDRESSES: The meeting will be held at the Beckman Center of The National Academies of Science and Engineering, located at 100 Academy Drive, Irvine, California 92617.

FOR FURTHER INFORMATION CONTACT: Lt Col Blythe Andrews, (240) 470–4566 (Voice), *blythe.andrews@us.af.mil* (Email). Mailing address is 1500 West Perimeter Road, Ste. #3300, Joint Base Andrews, MD 20762. Website: *https://www.scientificadvisoryboard.af.mil/.* The most up-to-date changes to the meeting agenda can be found on the website.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C. appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.140 and 102–3.150.

Purpose of the Meeting: The purpose of this Department of the Air Force Scientific Advisory Board meeting is to provide dedicated time for members to begin collaboration on research and formally commence the Department of the Air Force Scientific Advisory Board's FY23 Secretary of the Air Force directed studies. The Department of the Air Force Scientific Advisory Board will deliberate and finalize the FY23 Air Force Research Laboratory Science & Technology Review's Integrated Outbrief.

Agenda: [All times are Pacific Time] 8:00 a.m.–8:15 a.m. Welcome Remarks 8:15 a.m.–9:00 a.m. FY23 S&T Review Outbrief 9:00 a.m.–10:00 a.m. FY23 Study #1 Introduction 10:15 a.m.–11:15 a.m. FY23 Study #2 Introduction 11:15 a.m.–12:15 p.m. FY23 Study #3 Introduction 1:15 p.m.–2:15 p.m. FY23 Study #4 Introduction 2:15 p.m.–2:30 p.m. Closing Remarks. In accordance with section 10(d) of the Federal Advisory Committee Act, as amended, 5 U.S.C. appendix and 41 CFR 102–3.155, the Administrative Assistant of the Air Force, in consultation with the Air Force General Counsel, has agreed that the public interest requires the United States Department of the Air Force Scientific Advisory Board meeting be closed to the public because it will involve discussions involving classified matters covered by 5 U.S.C. 552b(c)(1).

Written Statements: Any member of the public wishing to provide input to the United States Department of the Air Force Scientific Advisory Board should submit a written statement in accordance with 41 CFR 102–3.140(c) and section 10(a)(3) of the Federal Advisory Committee Act and the procedures described in this paragraph. Written statements can be submitted to the Designated Federal Officer at the address detailed above at any time. The Designated Federal Officer will review all submissions with the Department of the Air Force Scientific Advisory Board Chairperson and ensure they are provided to members of the Department of the Air Force Scientific Advisory Board. Written statements received after the meeting that are the subject of this notice may not be considered by the Scientific Advisory Board until the next scheduled meeting.

Tommy W. Lee,

Acting Air Force Federal Register Liaison Officer.

[FR Doc. 2023–01597 Filed 1–25–23; 8:45 am]

BILLING CODE 5001–10–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2023–OS–0009]

U.S. Court of Appeals for the Armed Forces Proposed Rules Changes

AGENCY: Office of the Secretary, Department of Defense.

ACTION: Notice of proposed changes to the rules of practice and procedure of the United States Court of Appeals for the Armed Forces.

SUMMARY: This notice announces proposed changes to the Rules of Practice and Procedure, United States Court of Appeals for the Armed Forces. Although these rules of practice and procedure fall within the Administrative Procedure Act's exemptions for notice and comment, the Department, as a matter of policy, has decided to make these changes available for public review and comment before they are implemented.

DATES: Comments on the proposed changes must be received by February 27, 2023.

ADDRESSES: You may submit comments, identified by docket number and title by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.*
- *Mail:* Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, Regulatory Directorate, 4800 Mark Center Drive, Attn: Mailbox 24, Suite 08D09, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Malcolm H. Squires, Jr., Clerk of the Court, telephone (202) 761–1448.

SUPPLEMENTARY INFORMATION: This notice announces the following

proposed changes to Rules 3A, 13(b), 13A, 15(b), 19(a)(7)(B), 21, 24(b), 27(b), 36, 37(b)(2), 38(a), 39(a) and the Guidelines for Electronic Filing of Pleadings of the Rules of Practice and Procedure, United States Court of Appeals for the Armed Forces.

Dated: January 20, 2023.

Aaron T. Siegel,

Alternate OSD Federal Liaison Officer, Department of Defense.

Rule 3A

Rule 3A—Senior Judges—currently reads:

(a) With the Senior Judge's consent, and at the request of the Chief Judge, a Senior Judge may perform judicial duties with the Court if an active Judge of the Court is disabled or recused himself or if there is a vacancy in an active judgeship on the Court. For the periods of time when performing judicial duties with the Court, a Senior Judge shall receive the same pay, per diem, and travel allowances as an active Judge. The periods of performance of judicial duties shall be certified by the Chief Judge and reported to the Court Executive who shall take appropriate steps so that the Senior Judge is paid in accordance with Article 142(e)(2), Uniform Code of Military Justice (UCMJ), 10 U.S.C. 942(e)(2).

(b) In addition to the performance of judicial duties with the Court, a Senior Judge may, at the request of the Chief Judge and with the Senior Judge's consent, perform such other duties as the Chief Judge may request or the Court may direct. Such other duties may include, but are not limited to, service as a special master or as an adviser on Court operations, administration, and rules; representation of the Court at conferences, seminars, committee meetings, or other official or professional functions; coordination of or assistance with conferences being conducted by the Court; and assistance in the compilation of history or archives of the Court. A Senior Judge shall not receive pay for the performance of such other duties with the Court but may be paid per diem and travel allowance to reimburse expenses incurred by the Senior Judge while performing such duties.

(c) Whether in the performance of judicial duties or other duties, a Senior Judge shall be provided such administrative and secretarial assistance, office space, and access to the courthouse, other public buildings, court files, and related information, as the Chief Judge considers appropriate for the performance of those duties by the Senior Judge.

(d) The title of Senior Judge may not be used in any way for personal gain or in connection with any business activity, advertisement, or solicitation of funds. However, the title of a Senior Judge may be referred to in any professional biography or listing and may be used in connection with any judicial or other duties that the Chief Judge requests the Senior Judge to perform.

(e) No Senior Judge of the Court may engage in the practice of law in connection with any matter that involves an investigation or trial for any matter arising under the UCMJ or appellate review of any court-martial proceeding by a Court of Criminal Appeals, the United States Court of Appeals for the Armed Forces, or the Supreme Court of the United States.

(f) These rules shall apply to ''senior judges'' as defined by Article 142(e)(1), UCMJ, 10 U.S.C. 942(e)(1), and are promulgated pursuant to Article 142(e)(5), UCMJ, 10 U.S.C. 942(e)(5).

The proposed change to Rule 3A would read:

(a) With the Senior Judge's consent, and at the request of the Chief Judge, a Senior Judge may perform judicial duties with the Court if an active Judge of the Court is disabled or recused, or if there is a vacancy in an active judgeship on the Court. For the periods of time when performing judicial duties with the Court, a Senior Judge shall receive the same pay, per diem, and travel allowances as an active Judge. The periods of performance of judicial duties shall be certified by the Chief Judge and reported to the Clerk of the Court who shall take appropriate steps so that the Senior Judge is paid in accordance with Article 142(e)(2), Uniform Code of Military Justice (UCMJ), 10 U.S.C. 942(e)(2).

(b) In addition to the performance of judicial duties with the Court, a Senior Judge may, at the request of the Chief Judge and with the Senior Judge's consent, perform such other duties as the Chief Judge may request or the Court may direct. Such other duties may include, but are not limited to, service as a special master or as an adviser on Court operations, administration, and rules; representation of the Court at conferences, seminars, committee meetings, or other official or professional functions; coordination of or assistance with conferences being conducted by the Court; and assistance in the compilation of history or archives of the Court. A Senior Judge may not receive pay for the performance of such other duties with the Court but may be paid per diem and travel allowance to reimburse expenses incurred by the Senior Judge while performing such duties.

(c) The title of Senior Judge may not be used in any way for personal gain or in connection with any business activity, advertisement, or solicitation of funds. However, the title of a Senior Judge may be referred to in any professional biography or listing and may be used in connection with any judicial or other duties that the Chief Judge requests the Senior Judge to perform.

(d) No Senior Judge of the Court may engage in the practice of law in connection with any matter that involves an investigation or trial for any matter arising under the UCMJ or appellate review of any court-martial proceeding by a Court of Criminal Appeals, the United States Court of Appeals for the Armed Forces, or the Supreme Court of the United States.

(e) These rules shall apply to ''senior judges'' as defined by Article 142(e)(1), UCMJ, 10 U.S.C. 942(e)(1), and are promulgated pursuant to Article 142(e)(5), UCMJ, 10 U.S.C. 942(e)(5).

Comment: Article 142(e)(5), UCMJ, requires that our Court ''prescribe rules for the *use* and *conduct* of senior judges. . .'' (emphasis supplied). The proposed revision removes the language regarding the support and amenities provided to senior judges, which is repetitive of Article 142(e)(3), UCMJ, and NOT required by Article 142(e)(5). The Court has not employed a Court Executive for some time and the position's workload has largely been delegated to the Clerk of the Court.

Rules 13(b)

Rules 13(b)—Qualifications to Practice—currently reads:

* * * * *

(b) It shall be a requisite to the admission of attorneys to the Bar of this Court that they be a member of the Bar of a federal court or of the highest court of a State, Territory, Commonwealth, or Possession, and that their private and professional character shall appear to be good.

* * * * *

The proposed change to Rule 13(b) would read:

* * * * *

(b) It shall be a requisite to the admission of attorneys to the Bar of this Court that they be a member in good standing of the Bar of the highest court of a State, the District of Columbia, Territory, Commonwealth, or Possession of the United States.

* * * * *

Comment: Most federal courts are not bar licensing authorities. Limiting the

requirement to ''the Bar of a State, the District of Columbia, Territory, Commonwealth, or Possession of the United States'' will allow the Court to know the applicant's standing because these bars are licensing authorities and are notified of suspected or actual misconduct.

Rule 13A

Rule 13A—Student Practice Rule—currently reads:

* * * * *

(c) Supervising Attorney Requirements. A supervising attorney must:

(1) be an attorney of record in the case;

(2) be a member in good standing of the Bar of this Court;

(3) have been admitted to practice for a minimum of 2 years and have appeared and argued in at least 1 case before this Court or appeared and argued in at least 3 cases before state or federal appellate courts;

(4) not supervise more than 5 students at any one time;

(5) appear with the student in any oral presentations before this Court;

(6) read, approve, and sign all documents filed with this Court;

(7) assume personal professional responsibility for the student's work in matters before this Court;

(8) be responsible to supplement the oral or written work of the student as necessary to ensure proper representation of the client;

(9) guide and assist the student in preparation to the extent necessary or appropriate under the circumstances;

(10) be available to consult with the client; and

(11) neither ask for nor receive any compensation or remuneration of any kind from the person on whose behalf the services are rendered.

(d) Authorization and Certification.

(1) The party on whose behalf the student appears must consent to the representation by that student in writing.

(2) The supervising attorney must indicate in writing approval of the appearance by the law student and consent to supervise the student.

(3) The law student must be certified by the dean of the student's law school as being of good character and competent legal ability.

(4) Before commencing student representation in any case under this rule, the supervising attorney shall file a motion for leave to allow student representation in such case. The motion should put forth that the provisions of this rule have been met and that in counsel's view the case is an appropriate one for student representation. The written consent, approval, and certification referred to above shall be attached to the motion. A copy of the motion shall be served on opposing counsel, but no answer will be allowed except with leave of the Court. Once these documents are filed, the Court will decide, using its discretion on a caseby-case basis, whether to allow the student representation.

(e) Activities. Upon fulfilling the requirements of this rule, the student may enter an appearance in a case and:

(1) assist in the preparation of briefs and other documents to be filed in this Court, but such briefs or documents must also be signed by the supervising attorney;

(2) participate in oral argument, but only in the presence of the supervising attorney; and

(3) take part in other activities in connection with the case, subject to the direction of the supervising attorney.

(f) Termination. The dean's certification of the student:

(1) shall remain in effect, unless sooner withdrawn, until the publication of the results of the first bar examination taken by such student following the student's graduation. For any student who passes that examination, the certification shall continue in effect until the date the student is admitted to the bar;

(2) may be withdrawn by the Court at any time; and

(3) may be withdrawn by the dean at any time.

(g) Exceptions.

(1) This rule does not apply to an appearance or an oral argument by a law student on behalf of an amicus curiae. *See* Rule 26.

(2) Nothing in this rule shall preclude the Government or any agency, firm, or organization from compensating a law student for services rendered under such rule.

(3) The Court retains the authority, on good cause shown, to establish exceptions to these procedures in any case. *See* Rule 33.

(h) Time for Filing. An amicus brief submitted under this Rule is not subject to the time limitation in Rule 26, but such brief shall be filed no less than 14 days before the scheduled date of oral argument. Both the appellant and the appellee may file a reply to such brief within 7 days of the filing thereof, subject to the limitations specified in Rule 24 (b) and (c).

The proposed change to Rule 13A would read:

* * * * *

(c) Supervising Attorney Requirements. A supervising attorney must:

(1) be an attorney of record in the case;

(2) be a member in good standing of the Bar of this Court;

(3) have been admitted to practice for a minimum of 2 years and have argued at least 1 case before this Court or argued at least 3 cases before state or federal appellate courts;

(4) approve in writing the appearance by the law student and agree to supervise the student;

(5) not supervise more than 5 students at any one time;

(6) appear with the student in any oral presentations before this Court;

(7) read, approve, and sign all documents filed with this Court;

(8) assume personal professional responsibility for the student's work in matters before this Court;

(9) be available to consult with the client, if applicable; and

(10) neither ask for nor receive any compensation or remuneration of any kind from the person on whose behalf the services are rendered.

(d) Authorization and Certification.

(1) The party on whose behalf the student appears must consent to the representation by that student in writing.

(2) Before commencing student representation in any case under this rule, the prospective supervising attorney must file a motion for leave to allow student representation in such case. The motion must affirm that the provisions of this rule have been met and that, in the prospective counsel's view, the case is an appropriate one for student representation. The written consent, approval, and certification referred to above shall be attached to the motion. No answer will be allowed except with leave of the Court. Once these documents are filed, the Court will decide, using its discretion on a case-by-case basis, whether to allow the student representation.

(e) Activities. Upon fulfilling the requirements of this rule, the student may enter an appearance in a case and:

(1) assist in the preparation of briefs and other documents to be filed in this Court; and

(2) participate in oral argument, but only in the presence of the supervising attorney.

(f) Exceptions.

(1) Nothing in this rule shall preclude the Government or any agency, firm, or organization from compensating a law student for services rendered under such rule.

(2) The Court retains the authority, on good cause shown, to establish

exceptions to these procedures in any case. *See* Rule 33.

Comment: The student practitioner rule should make no distinction based on the route a student takes to participate in a case—whether through some type of internship, externship, or through Project Outreach. The nature of the Court's Project Outreach visit may make meeting the standard requirements for filing briefs unworkable. However, no rigid timeline or word limitation need be spelled out, as this can be overcome by granting exceptions through what would become Rule 13A(f)(2).

Rule 15(b)

Rule 15(b)—Disbarment and Disciplinary Actions—currently reads:

* * * * *

(b) Whenever a member of the Bar of this Court has been disbarred or suspended from practice in any court of record, the Court will enter an order suspending that member from practice before this Court and affording the member an opportunity to show cause, within 30 days, why a disbarment order should not be entered. Upon response, or if no response is timely filed, the Court will enter an appropriate order.

* * * * *

The proposed change to Rule 15(b) would read:

* * * * *

(b) Attorneys must report suspension, disbarment, or final disciplinary action in the bars of other courts to the Bar of this Court within 30 days following said action. Whenever a member of the Bar of this Court has been disbarred or suspended from practice in any court of record, the Court must enter an order temporarily suspending that member from practice before this Court and affording the member an opportunity to show cause, within 30 days, why a disbarment order should not be entered. Upon response, or if no response is timely filed, the Court will enter an appropriate order.

* * * * *

Comment: There was no previously existing requirement for attorneys to update this Court of any suspension, disbarment, or final disciplinary action in the bars of other courts. Adding this language will allow this Court to take appropriate action to maintain the integrity of its bar.

Rule 19(a)(7)(B)

Rule 19(a)(7)(B)—Time Limits—currently reads:

(a) Petition for Grant of Review/Supplement/Answer/Reply

* * * * *

(7) Granted Petitions.

* * * * *

(B) Other Appeals. Where a petition has been granted in all other appeal cases and briefs have been ordered, an appellant's brief shall be filed in accordance with Rule 24 no later than 30 days after the date of the order granting the petition. An appellee's answer shall be filed no later than 30 days after the filing of an appellant's brief. A reply may be filed by the appellant no later than 10 days after the filing of the appellee's answer.

The proposed change to Rule 19(a)(7)(B) would read:

(a) Petition for Grant of Review/Supplement/Answer/Reply

* * * * *

(7) Granted Petitions.

* * * * *

(B) Other Appeals. Where a petition has been granted in all other appeal cases, to include cases returned by mandate from the United States Supreme Court, the Clerk of Court will issue a briefing order within 30 days to provide the appropriate timing and sequence of filings.

Comment: Due to the uncertain nature of ''other appeals'' it is best to remove strict requirements on the order and timing of filings and to place them under the discretion of the Clerk of the Court.

Rule 21

Rule 21—Supplement to Petition for Grant of Review—currently reads:

* * * * *

(b) The supplement to the petition shall be filed in accordance with the applicable time limit set forth in Rule 19(a)(5)(A) or (B), shall include an Appendix containing a copy of the decision of the Court of Criminal Appeals, unpublished opinions cited in the brief, relevant extracts of rules and regulations, and shall conform to the provisions of Rules 24(b), 35A, and 37. Unless authorized by Order of the Court or by motion of a party granted by the Court, the supplement and any answer thereto shall not exceed 25 pages, except that a supplement or answer containing no more than 9,000 words or 900 lines of text is also acceptable. Any reply to the answer shall not exceed 10 pages, except that a reply containing 4,000 words or 400 lines of text is also acceptable. The supplement shall contain:

* * * * *

(f) An appellant or counsel for an appellant may move to withdraw his petition at any time by filing a motion pursuant to Rule 30. Such a motion shall substantially comply with the requirements of Rule for Courts-Martial 1110, and be accompanied by a written request for withdrawal that includes the following:

* * * * *

The proposed changes to Rules 21 would read:

* * * * *

(b) The supplement to the petition shall be filed in accordance with the applicable time limit set forth in Rule 19(a)(5) and shall include an Appendix containing a copy of the decision of the Court of Criminal Appeals, unpublished opinions cited in the brief, relevant extracts of rules and regulations, and shall conform to the provisions of Rules 35A and 37. Unless authorized by Order of the Court or by motion of a party granted by the Court, the supplement and any answer thereto may not exceed 9,000 words. Any reply to the answer may not exceed 4,500 words. The supplement shall contain:

* * * * *

(f) An appellant may move to withdraw a petition at any time by filing a motion pursuant to Rule 30. Such a motion must be accompanied by a written request for withdrawal that includes the following:

* * * * *

Comment: Rule 24(b) deals with the filing of briefs, and, as Rule 21 governs the supplement, all provisions governing the length of the supplement should remain in Rule 21(b). The page and lines of text requirements are removed to bring this Court in line with the trends of other federal courts. Both the Rules of the Supreme Court and the Federal Rules of Appellate Procedure are deemphasizing page limitations and shifting focus to word counts. Presently, Rule 21(f) states that such a motion shall comply with R.C.M. 1110, along with other requirements specified in Rule 21(f)(1)–(3). The current version of R.C.M. 1110 does not address this subject. The 2019 M.C.M. does address petitions for withdrawal of appellate review in R.C.M. 1115, but not as to C.A.A.F., only as to the C.C.A.s.

Rule 24

Rule 24(b)—Supplement to Petition for Grant of Review—currently reads:

Rule 24(b)—Form, Content, and Page Limitations

* * * * *

(b) Page Limitations. Unless otherwise authorized by order of the Court or by motion of a party granted by the Court (*see* Rule 30), or by Rule 24(c), the page limitations for briefs filed with the Court, not including appendices shall be as follows:

(1) Briefs of the appellants/petitioners shall not exceed 30 pages;

(2) Answers of the appellees/respondents shall not exceed 30 pages;

(3) Replies of the appellants/petitioners shall not exceed 15

(c) Type-Volume Limitations.

(1) A brief of the appellants/petitioners and an answer of the appellees/respondents is acceptable if:

it contains no more than 14,000 words; or

it contains no more than 1,300 lines of text.

(2) A reply is acceptable if it contains no more than half of the type-volume specified in Rule 24(c)(1).

(3) Headings, footnotes, and quotations count toward the word and line limitations. The index, table of cases, statutes, and other authorities, the appendix and any certificates of counsel do not count toward the limitation.

(d) Certificate of Compliance. A brief submitted under Rule 24(c) must include a certificate stating that the brief complies with the type-volume limitation and Rule 37. The person preparing the certificate may rely on the word or line count of the word-processing system used to prepare the brief. The certificate must state either: (i) the number of words in the brief; or (ii) the number of lines in the brief.

(e) Form of Certificate of Compliance

Certificate of Compliance With Rule 24(d)

This brief complies with the type-volume limitation of Rule 24(b) because:

[The principal brief may not exceed 14,000 words or 1,300 lines; a reply or amicus brief may not exceed 7,000 words or 650 lines

This brief contains [state the number of] words.

* * * * *

(f) Joint Appendix. The appellant or petitioner shall be responsible for filing eight copies of a joint appendix, which shall be a separate document filed contemporaneously with the brief.

* * * * *

(2) Format. The joint appendix will be produced on 8.5 by 11 inch white paper, be bound in a manner that is secure and does not obscure the text, and will permit the contents to lie reasonably flat when open. The cover must be white and contain the caption of the case and docket number. The cover shall be followed by a table of contents. Pages in the joint appendix shall be sequentially numbered in a manner that does not obscure any page numbers reflected in the record of trial. If the joint appendix consists of less than 100 pages, it may be reproduced by single-sided or double-sided copying. If it consists of 100 pages or more, the joint appendix shall use double-sided copying. Classified material or matters under seal that are to be included in a joint appendix shall be submitted in a separate volume, clearly designated as containing classified or sealed material. Classified material will be handled in accordance with Rule 12.

* * * * *

The proposed change to Rule 24(b) would read:

Rule 24(b)—Form, Content, and Type-Volume Limitations

* * * * *

(b) Type-Volume limitations. Unless otherwise authorized by order of the court or by motion of a party granted by the Court (*see* Rule 30), or by Rule 24(c), the type-volume limitations for briefs filed with the Court, not including appendices shall be as follows:

(1) A brief of the appellants/petitioners and an answer of the appellees/respondents may not exceed 14,000 words.

(2) A reply may not exceed more than half of the words (7,000) specified in Rule 24(b)(1).

(3) Headings, footnotes, and quotations count toward the word limitation. The index, table of cases, statutes, and other authorities, the appendix and any certificates of counsel do not count toward the limitation.

(c) Certificate of Compliance. A brief submitted under Rule 24(b) must include a certificate stating that the number of words in the brief complies with the type-volume limitation and Rule 37. The person preparing the certificate may rely on the word count of the word-processing system used to prepare the brief. The certificate must state the number of words in the brief.

(d) Form of Certificate of Compliance.

Certificate of Compliance With Rule 24(b)

* * * This brief complies with the type-volume limitation of Rule 24(b) because:

This brief contains [state the number of] words.

* * * * *

(e) Joint Appendix. The appellant or petitioner shall be responsible for filing eight copies of a joint appendix, which shall be a separate document filed contemporaneously with the brief.

* * * * *

(2) Format. The Joint Appendix will be produced on 8.5 by 11 inch white paper, be bound in a manner that is secure and does not obscure the text, and will permit the contents to lie reasonably flat when open. The cover must be white and contain the caption of the case and docket number. The cover shall be followed by a table of contents. Pages in the joint appendix shall be sequentially numbered in a manner that does not obscure any page numbers reflected in the record of trial. If the joint appendix consists of less than 100 pages, it may be reproduced by single-sided or double-sided copying. If it consists of 100 pages or more, the joint appendix shall use double-sided copying. Audio and video recordings may be filed electronically or produced on a CD or DVD. *See* the Guidelines for Electronic Filing of Pleadings § 1(e). Classified material or matters under seal that are to be included in a joint appendix shall be submitted in a separate volume, clearly designated as containing classified or sealed material. Classified material will be handled in accordance with Rule 12.

* * * * *

Comment: The page and lines of text requirements are removed to bring this Court in line with the trends of other federal courts. Both the Rules of the Supreme Court and the Federal Rules of Appellate Procedure are deemphasizing page limitations and shifting focus to word counts. Additionally, stating a clear rule on the nature of audio and video filing will provide clarity to filers.

Rule 27(b)

Rule 27(b)—Petition for Extraordinary Relief, Writ-Appeal Petition, Answer, and Reply—currently reads:

* * * * *

(b) Writ-Appeal Petition, Answer, and Reply. A writ-appeal petition for

review of a decision by a Court of Criminal Appeals acting on a petition for extraordinary relief shall be filed by an appellant, together with any available record, including the items specified in subsection (a)(2)(C), within the time prescribed by Rule 19(e), shall conform in length to Rule 24(b), shall be accompanied by proof of service on the appellee in accordance with Rule 39, and shall contain the information required by subsection (a)(2)(B). The appellee shall file an answer no later than 10 days after the filing of the writ-appeal petition. A reply may be filed by the appellant no later than 5 days after the filing of the appellee's answer. *See* Rules 28(b)(2) and (c)(2). Upon the filing of pleadings by the parties, the Court may grant or deny the writ-appeal petition or take such other action as the circumstances may require.

The proposed change to Rule 27(b) would read:

* * * * *

(b) Writ-Appeal.

(1) Writ-Appeal Petition, Answer, and Reply. A writ-appeal petition for review of a decision by a Court of Criminal Appeals acting on a petition for extraordinary relief shall be filed by an appellant, together with any available record, including the items specified in subsection (a)(2)(C), within the time prescribed by Rule 19(e). The petition must conform in length to Rule 24(b), shall be accompanied by proof of service on the appellee in accordance with Rule 39, and shall contain the information required by subsection (a)(2)(B). The appellee may file an answer no later than 10 days after the filing of the writ-appeal petition. A reply may be filed by the appellant no later than 5 days after the filing of the appellee's answer. *See* Rules 28(b)(2) and (c)(2).

(2) Priority Writ-Appeal for Article 6b(e) Writs. To the extent practicable, review of any decision of the Courts of Criminal Appeals on a petition for mandamus, pursuant to Article 6b(e)(3)(C), UCMJ, 10 U.S.C. 806b(e)(3)(C), will have priority over all other proceedings before this Court.

Comment: Adding Rule 27(b)(2) is necessary to recognize that Article 6b(e) writs have priority as reflected in the Statute. The exact language of Article 6b(e)(3)(C), UCMJ, 10 U.S.C. 806b is as follows, and has been incorporated into the rule above:

(C) Review of any decision of the Court of Criminal Appeals on a petition for a writ of mandamus described in this subsection shall have priority in the Court of Appeals for the Armed Forces, as determined under the rules of the Court of Appeals for the Armed Forces. Art. 6b(e)(3)(C), UCMJ, 10 U.S.C. 806b.

Rule 36

Rule 36—Filing of Pleadings—currently reads:

* * * * *

(b) Filing in Person. If a pleading or other paper is filed in person, such filing shall consist of delivery to a member of the Clerk's office during normal business hours. *See* Rule 9(e).

* * * * *

The proposed change to Rule 36 would read:

* * * * *

(b) Filing in Person. If a pleading or other paper is filed in person, such filing shall consist of delivery pursuant to Rule 9(e).

* * * * *

(f) Pro Se Filings. A pro se filing is a filing that is made by a person on his or her own behalf and that is not signed by at least one counsel who is participating in the case. *See* Rule 38(a). Pro se filings must include a statement indicating whether the filer is currently represented by designated military or other counsel. A person who is represented by counsel may make a pro se filing only if leave to file is granted by the Court for good cause shown. To establish good cause, a person who is represented by a counsel who has entered a notice of appearance must explain why representation by that counsel is inadequate. The Court and its employees cannot give legal help or advice to any person. A person making a pro se filing must follow all the Court's Rules of Practice and Procedure.

Comment: The ability for counsel and the accused party to file separate documents is unfair to the other side and, if a represented party can file separately, *Grostefon* is rendered meaningless. Previously, the Court's rules have not defined pro se filings or put forth their limitations. While a person who is represented by counsel generally should not be permitted to file anything pro se, there may exist some exceptions. The best way to handle the possibilities of exceptions is to require a person to seek leave to file pro se and to show good cause.

Rule 37(b)(2)

Rule 37(b)(2)—Printing, Copying, and Style Requirements—currently reads:

* * * * *

(b) Copying

* * * * *

(2) Except for electronically filed pleadings, an original and 7 legible copies of all pleadings or other papers relative to a case shall be filed. *See* Rule 35A concerning documents which contain classified information.

* * * * *

The proposed change to Rule 37(b)(2) would read:

* * * * *

(b) Copying

* * * * *

(2) Except for electronically filed pleadings and audio and video recordings, an original and 7 legible copies of all pleadings or other documents relative to a case shall be filed. *See* Rule 35A concerning documents which contain classified information.

* * * * *

Comment: This proposal reflects the changes needed to allow for the electronic filing of audio and video recordings.

Rule 38(a)

Rule 38(a)—Signatures—currently reads:

(a) General. Except for documents filed in propria persona and those provided for in subsection (b), all original pleadings or other papers filed in a case will bear the signature of at least one counsel who is a member of this Court's Bar and who is participating in the case. The name, address, telephone number, Court Bar number, and rank, if any, of the person signing, together with the capacity in which such counsel signs the paper, will be included. This signature will constitute a certificate that the statements made in the pleading or paper are true and correct to the best of the counsel's knowledge, information, or belief, and that the pleading or paper is filed in good faith and not for the purpose of unnecessary delay. A counsel who signs a pleading ''for'' some other counsel whose name is typed under such signature must, in addition, affix their own signature in a separate signature block with their own name, address, telephone number, Court Bar number, and rank, if any, typed thereunder.

The proposed change to Rule 38(a) would read:

(a) General. Except for documents filed pro se and those provided for in subsection (b), all original pleadings or other papers filed in a case will bear the signature of at least one counsel who is a member of this Court's Bar and who is participating in the case. The name, address, telephone number, Court Bar number, and rank, if any, of the person signing, together with the capacity in which such counsel signs the paper, will be included. This signature will constitute a certificate that the statements made in the pleading or paper are true and correct to the best of the counsel's knowledge, information, or belief, and that the pleading or paper is filed in good faith and not for the purpose of unnecessary delay. A counsel who signs a pleading ''for'' some other counsel whose name is typed under such signature must, in addition, affix their own signature in a separate signature block with their own name, address, telephone number, Court Bar number, and rank, if any, typed thereunder. An electronic filing shall contain the digital signature of the attorney of record.

Comment: Rule 38 should be amended to include the guidance listed in paragraph 3(e) of the appendix regarding signatures in electronic filings.

Rule 39(a)

Rule 39(a)—Signatures—currently reads:

(a) In General. At or before the filing of any pleading or other paper relative

to a case in the Clerk's office, a copy thereof shall be served on all counsel of record, including amicus curiae counsel, in person, by mail, by third-party commercial carrier, or by electronic means if the party being served consents. *See* Rule 16(b). When a party is not represented by counsel, service shall be made on such party in person, by mail, or by third-party commercial carrier. When reasonable, considering such factors as the immediacy of the relief sought, distance, and cost, service must be at least as expeditious as the manner used to file the pleading or other paper with the Court. *See* Rule 36.

* * * * *

The proposed change to Rule 39(a) would read:

(a) In General. At or before the filing of any pleading or other paper relative to a case, a copy thereof shall be served on all counsel of record, including amicus curiae counsel, in person, by mail, by third-party commercial carrier, or by electronic means. When a party is not represented by counsel, service shall be made on such party in person, by mail, or by third-party commercial carrier. When reasonable, considering such factors as the immediacy of the relief sought, distance, and cost, service must be at least as expeditious as the manner used to file the pleading or other paper with the Court. *See* Rule 36.

* * * * *

Comment: The advent of electronic filings renders a consent requirement unnecessary.

Guidelines for Electronic Filing of Pleadings

The Guidelines for Electronic Filing of Pleadings currently reads:

* * * * *

e. The Joint Appendix to the brief will be filed in paper form only with the required number of paper copies rather than electronically. If the appellant or petitioner files the brief electronically, the Joint Appendix will be filed on the same day the brief is filed electronically.

* * * * *

The proposed change to the Guidelines for Electronic Filing of Pleadings would read:

* * * * *

e. The Joint Appendix to the brief, to include copies, will be filed in paper form only. Audio and video recordings are exempt from this paper requirement for the Joint Appendix to the brief. If the appellant or petitioner files the brief electronically, the Joint Appendix will be filed on the same day the brief is filed.

* * * * *

Comment: Electronically filing audio and video recordings will allow for easier transmission and access to the recordings and explicitly stating the Court's policy will provide clarity to filers.

[FR Doc. 2023–01527 Filed 1–25–23; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2022–SCC–0144]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Student Assistance General Provisions—Subpart K—Cash Management

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing an extension without change of a currently approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before February 27, 2023.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be submitted within 30 days of publication of this notice. Click on this link *www.reginfo.gov/public/do/PRAMain* to access the site. Find this information collection request (ICR) by selecting ''Department of Education'' under ''Currently Under Review,'' then check the ''Only Show ICR for Public Comment'' checkbox. *Reginfo.gov* provides two links to view documents related to this information collection request. Information collection forms and instructions may be found by clicking on the ''View Information Collection (IC) List'' link. Supporting statements and other supporting documentation may be found by clicking on the ''View Supporting Statement and Other Documents'' link.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, 202–377–4018.

SUPPLEMENTARY INFORMATION: The Department is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Student Assistance General Provisions—Subpart K—Cash Management.

OMB Control Number: 1845–0038.

Type of Review: An extension without change of a currently approved ICR.

Respondents/Affected Public: Private sector; State, local, and Tribal governments; individuals and households.

Total Estimated Number of Annual Responses: 1,9605,555.

Total Estimated Number of Annual Burden Hours: 861,393.

Abstract: This request is for an extension of the current information collection 1845–0038 that is expiring. This collection pertains to the recordkeeping requirements contained in the regulations related to the administration of the Subpart K—Cash Management section of the Student Assistance General Provisions. The regulatory language has not changed. These program regulations are designed to provide benefits to Title IV, HEA applicants, and protect the taxpayers' interest. The information collection requirements in these regulations are necessary to provide students with required information about their eligibility to receive funding under the federal student financial aid programs and to prevent fraud and abuse of program funds by allowing students to reduce or reject aid being offered as well as being made aware of when such funding can be expected to be available.

Dated: January 23, 2023.

Kun Mullan,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2023–01573 Filed 1–25–23; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Authorization of Subgrants for the Congressionally Funded Community Projects for Fiscal Year 2023

AGENCY: Office of Elementary and Secondary Education and Office of

Postsecondary Education, Department of Education.

ACTION: Notice.

SUMMARY: Pursuant to the Education Department General Administrative Regulations, the Department of Education (Department) authorizes grantees receiving awards under the Congressionally Funded Community Projects (Assistance Listing Numbers 84.116Z, 84.215K) to make subgrants, subject to the limitations described in this notice.

DATES: This authorization is effective January 26, 2023.

FOR FURTHER INFORMATION CONTACT:

For K–12: Erin Shackel, U.S. Department of Education, 400 Maryland Avenue SW, Washington, DC 20202. Telephone: (202) 453–6423. Email: *k12earmarks@ed.gov.*

For Higher Education: Tonya Hardin, U.S. Department of Education, 400 Maryland Avenue SW, Washington, DC 20202. Telephone: (202) 453–7694. Email: *CongressionallyDirectedGrants-OPE@ed.gov.*

If you are deaf, hard of hearing, or have a speech disability and wish to access telecommunications relay services, please dial 7–1–1.

SUPPLEMENTARY INFORMATION:

Purpose of Program: Title III of Division H of the Consolidated Appropriations Act, 2023 (the Act) authorizes funding for Congressionally Funded Community Projects (CFCP). The funds will support identified organizations throughout the country to conduct community project activities. The list of identified organizations may be found in Book II of the December 20, 2022, issue of the Congressional Record of the Senate.

Subgrant Authorization: The Department's regulations in 34 CFR 75.708(a) prohibit subgranting, in the absence of statutory authority, unless authorized by a notice in the **Federal Register**. The Department has determined that to effectively conduct some of the Congressionally Funded Community Projects and meet the purposes of the program, subgrants may be appropriate and necessary. Accordingly, through this notice, we authorize the fiscal year 2023 CFCP grantees to make CFCP subgrants on the terms outlined in this notice.

Under 34 CFR 75.708(b), if the grantee uses this subgranting authority, the grantee has the authority to award subgrants only to eligible entities, and the subgrants must be used only to directly carry out project activities described in the grantee's approved application and consistent with the purpose described in the Consolidated Appropriations Act, 2023. CFCP grantees may make subgrants to the following eligible entities: a local educational agency, an educational service agency, an institution of higher education, or a nonprofit organization, as defined in 34 CFR 77.1.

Further, under 34 CFR 75.708(d), grantees must ensure that (1) subgrants are awarded on the basis of the approved budget that is consistent with the grantee's approved application and all applicable Federal statutory, regulatory, and other requirements; (2) every subgrant includes all conditions required by Federal statutes and Executive orders and their implementing regulations; and (3) subgrantees are aware of the requirements imposed upon them by Federal statutes and regulations, including the Federal anti-discrimination laws listed in 34 CFR 75.500, and enforced by the Department. Additionally, as is true with any expenditures incurred under the Department's grant programs, CFCP expenditures must satisfy the Federal cost principles in 2 CFR part 200, subpart E. Therefore, any subgrant and subgrantee expenditures must comply with the Federal cost principles, and grantees, as pass-through entities, must comply with the procedures for making subawards described in 2 CFR 200.332.

Note: This notice does not solicit applications.

Program Authority: Title III of Division H of the Consolidated Appropriations Act, 2023 (Pub. L. 117–328).

Accessible Format: On request to one of the program contact persons listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free on Adobe's website.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

James Lane,

Senior Advisor to the Secretary, Delegated the Duties of the Assistant Secretary for Elementary and Secondary Education.

Nasser H. Paydar,

Assistant Secretary for Postsecondary Education.

[FR Doc. 2023–01582 Filed 1–25–23; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Fulbright-Hays Group Projects Abroad Program

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education is issuing a notice inviting applications for fiscal year (FY) 2023 for the Fulbright-Hays Group Projects Abroad (GPA) Program, Assistance Listing Numbers 84.021A and 84.021B. This notice relates to the approved information collection under OMB control number 1840–0792.

DATES:

Applications Available: January 26, 2023.

Deadline for Transmittal of Applications: March 27, 2023.

Pre-Application Webinar information: The Department will hold a pre-application webinar for prospective applicants. Detailed information regarding this webinar will be provided on the GPA website at *www2.ed.gov/programs/iegpsgpa/index.html.* Additionally, for prospective applicants that have never received a grant from the Department and those that are interested in learning more about the process, please review the grant funding basics resource at *https://www2.ed.gov/documents/funding-101/funding-101-basics.pdf.*

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on December 7, 2022 (87 FR 75045) and available at *https://www.federalregister.gov/documents/2022/12/07/2022-26554/common-*

instructions-for-applicants-to-department-of-education-discretionary-grant-programs. Please note that these Common Instructions supersede the version published on December 27, 2021.

FOR FURTHER INFORMATION CONTACT: Cory Neal, U.S. Department of Education, 400 Maryland Avenue SW, Room 258–12, Washington, DC 20202. Telephone: (202) 704–3437. Email: *GPA@ed.gov.*

If you are deaf, hard of hearing, or have a speech disability and wish to access telecommunications relay services, please dial 7–1–1.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of the Fulbright-Hays GPA Program is to promote, improve, and develop the study of modern foreign languages and area studies in the United States. The program provides opportunities for faculty, teachers, and undergraduate and graduate students to conduct group projects overseas. Projects may include either (1) short-term seminars, curriculum development, or group research or study, or (2) long-term advanced intensive language programs.

This competition invites applicants to submit an application to request support for either a Fulbright-Hays GPA short-term project (GPA short-term project 84.021A) or a Fulbright-Hays GPA long-term project (GPA long-term project 84.021B). Applicants must clearly indicate on the SF 424, the Application for Federal Assistance cover sheet, whether they are applying for a GPA short-term project (84.021A) or a GPA long-term project (84.021B). Additional submission requirements are included in the application package.

There are three types of GPA short-term projects: (1) short-term seminar projects of 4 to 6 weeks in length designed by the applicant to help participants integrate international studies into the curriculum at an institution of higher education (IHE) or a school system when they return to the United States, by focusing on a particular aspect of area studies, such as the culture of an area or country of study (34 CFR 664.11); (2) curriculum development projects of 4 to 8 weeks in length that provide participants the opportunity to acquire resource materials for curriculum development in modern foreign language and area studies for use and dissemination in the United States (34 CFR 664.12); and (3) group research or study projects of 3 to 12 months in duration designed to give participants the opportunity to undertake research or study in a foreign country (34 CFR 664.13).

GPA long-term projects are advanced overseas intensive language programs designed by the applicant that may be carried out during a full year, an academic year, a semester, a trimester, a quarter, or a summer. GPA long-term projects provide participants an opportunity to use and strengthen their advanced language training while experiencing the culture in the foreign country. Participants should have successfully completed at least 2 academic years of training in the language to be studied to be eligible to participate in a GPA intensive advanced language training program. In addition, the language to be studied must be indigenous to the host country and maximum use must be made of local institutions and personnel (34 CFR 664.14).

Priorities: This notice contains one absolute priority and six competitive preference priorities. In accordance with 34 CFR 75.105(b)(2)(ii), the absolute priority is from the regulations for this program (34 CFR 664.32). Competitive Preference Priorities 1 and 2 are from the notice of final priorities and definitions published in the **Federal Register** on June 16, 2016 (81 FR 39196) (the 2016 NFP); Competitive Preference Priority 3 is from the regulations for this program (34 CFR 664.32); Competitive Preference Priority 4 is from the notice of final priorities published in the **Federal Register** on September 24, 2010 (75 FR 59050) (the 2010 NFP); and Competitive Preference Priorities 5 and 6 are from the regulations for this program (34 CFR 664.32).

Absolute Priority: For FY 2023, and any subsequent year in which we make awards from the list of unfunded applications from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet this priority.

This priority is:

Specific Geographic Regions of the World

A group project that focuses on one or more of the following geographic regions of the world: Africa, East Asia, South Asia, Southeast Asia and the Pacific, the Western Hemisphere (Central and South America, Mexico, and the Caribbean), Eastern and Central Europe and Eurasia, and the Near East.

Competitive Preference Priorities: For FY 2023, there are six competitive preference priorities. Under 34 CFR 75.105(c)(2)(i), we award 3 additional points to an application that meets Competitive Preference Priority 1; 2 additional points to an application that meets Competitive Preference Priority 2; 2 additional points for short-term projects or 4 additional points for long-term projects to an application that meets Competitive Preference Priority 3; 2 additional points to an application that meets Competitive Preference Priority 4; 2 additional points to an application that meets Competitive Preference Priority 5; and 2 additional points to an application that meets Competitive Preference Priority 6. Applicants for GPA short-term projects may address Competitive Preference Priorities 1, 3, 4, 5, and 6. Applicants for GPA long-term projects may address Competitive Preference Priorities 2 and 3. In the application narrative, an applicant must indicate the priority or priorities being addressed, provide a substantive description of how the proposed activities support the applicant's selected priority or priorities, and provide documentation supporting such claims.

These priorities are:

Competitive Preference Priority 1—Applications for GPA Short-Term Projects from Selected Institutions and Organizations (3 Points).

Applications for GPA short-term projects from the following types of institutions and organizations:

- Minority-Serving Institutions (MSIs) (as defined in this notice);
- Community colleges (as defined in this notice);
- New applicants (as defined in this notice); or
- State educational agencies (SEAs) (as defined in this notice).

Competitive Preference Priority 2—Applications for GPA Long-Term Projects from MSIs (2 Points).

Applications for GPA long-term advanced overseas intensive language training projects from MSIs.

Competitive Preference Priority 3—Substantive Training and Thematic Focus on Less Commonly Taught Languages (2 Points for short-term projects or 4 Points for long-term projects).

Applications that propose GPA short-term projects (2 points) or GPA long-term projects (4 points) that provide substantive training and thematic focus on any modern foreign language except French, German, or Spanish.

Competitive Preference Priority 4—Inclusion of K–12 Educators (2 Points).

Applications that propose short-term projects abroad that develop and improve foreign language studies, area studies, or both at elementary and secondary schools by including K–12 teachers or K–12 administrators as at least 50 percent of the project participants.

Competitive Preference Priority 5—Thematic Focus on Academic Fields (2 Points).

Applications that propose short-term projects abroad in modern foreign languages and area studies with an academic focus on any of the following academic fields: science, technology, engineering, mathematics, computer science, education (comparative or international), international development, political science, public health, or economics.

Competitive Preference Priority 6—Thematic Focus on Ukraine OR Afghanistan (2 Points).

Applications that propose one of the following projects:

- Short-term overseas projects in Eastern Europe that provide cultural experiences and understanding about Ukraine history, politics, languages, and society to help integrate international studies into an institution's or school system's general curriculum. Projects may focus on a comparative topic such as Ukraine migration in Eastern Europe; or
- Short-term overseas projects in Central and South Asia that provide cultural experiences and understanding about Afghanistan history, politics, languages, and society to help integrate international studies into an institution's or school system's general curriculum. Projects may focus on a comparative topic such as Afghanistan migration in Central and South Asia.

Definitions: The following definitions are from the 2016 NFP and are intended to provide clarity for applicants addressing Competitive Preference Priorities 1 and 2.

Community college means an institution that meets the definition in section 312(f) of the Higher Education Act of 1965, as amended (HEA) (20 U.S.C. 1058(f)); or an IHE (as defined in section 101 of the HEA (20 U.S.C. 1001)) that awards degrees and certificates, more than 50 percent of which are not bachelor's degrees (or an equivalent).

Minority-serving institution (MSI) means an institution that is eligible to receive assistance under sections 316 through 320 of part A of title III, under part B of title III, or under title V of the HEA.

New applicant means any applicant that has not received a discretionary grant from the Department of Education under the Fulbright-Hays Act prior to the deadline date for applications under this program.

State educational agency (SEA) means the State board of education or other agency or officer primarily responsible for the supervision of public elementary and secondary schools in a State. In the absence of this officer or agency, it is an officer or agency designated by the Governor or State law.

Program Authority: 22 U.S.C. 2452(b)(6).

Note: Projects will be awarded and must be operated in a manner consistent with the nondiscrimination requirements contained in Federal civil rights laws.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 81, 82, and 86. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474. (d) The regulations for this program in 34 CFR part 664. (e) The 2010 NFP. (f) The 2016 NFP.

Note: The regulations in 34 CFR part 86 apply to IHEs only.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: The Administration has requested $8,811,000 for awards for the Fulbright-Hays Overseas program for FY 2023, of which we intend to use an estimated $3,717,000 for this competition. The actual level of funding, if any, depends on final congressional action. However, we are inviting applications to allow enough time to complete the grant process if Congress appropriates funds for this program.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in future fiscal years from the list of unfunded applications from this competition.

Estimated Available Funds: $3,717,000.

Estimated Range of Awards:

GPA short-term projects: $50,000–$180,000.

GPA long-term projects: $50,000–$300,000.

Estimated Average Size of Awards:

GPA short-term projects: $92,605.

GPA long-term projects: $299,605.

Maximum Award: We will not make a GPA short-term award exceeding $180,000 for a single project period of 18 months. We will not make a GPA long-term project award exceeding $300,000 for a single budget period of 24 months.

Estimated Number of Awards: 25.

GPA short-term projects: 15.

GPA long-term projects: 10.

Note: The Department is not bound by any estimates in this notice.

Project Period:

GPA short-term projects: Up to 18 months.

GPA long-term projects: Up to 24 months.

III. Eligibility Information

1. *Eligible Applicants:* (1) IHEs, (2) SEAs, (3) private nonprofit educational organizations, and (4) consortia of these entities.

Eligible Participants: Citizens, nationals, or permanent residents of the United States, who are (1) faculty members who teach modern foreign languages or area studies at an IHE, (2) teachers in elementary or secondary schools, (3) experienced education administrators responsible for planning, conducting, or supervising programs in modern foreign language or area studies at the elementary, secondary, or postsecondary levels, or (4) graduate students, or juniors or seniors in an IHE, who plan teaching careers in modern foreign languages or area studies.

Note: If you are a nonprofit organization, under 34 CFR 75.51, you may demonstrate your nonprofit status by providing: (1) proof that the Internal Revenue Service currently recognizes the applicant as an organization to which contributions are tax deductible under section 501(c)(3) of the Internal Revenue Code; (2) a statement from a State taxing body or the State attorney general certifying that the organization is a nonprofit organization operating within the State and that no part of its net earnings may lawfully benefit any private applicant's certificate of incorporation or similar document if it clearly establishes the nonprofit status of the applicant; or (4) any item described above if that item applies to a State or national parent organization, together with a statement by the State or parent organization that the applicant is a local nonprofit affiliate.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

3. *Subgrantees:* A grantee under this competition may not award subgrants to entities to directly carry out project activities described in its application.

4. *Build America, Buy America Act:* This program is not subject to the Build America, Buy America Act (Pub. L. 117–58) domestic sourcing requirements.

IV. Application and Submission Information

1. *Application Submission Instructions:* Applicants are required to

follow the Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on December 7, 2022 (87 FR 75045) and available at *https://www.federalregister.gov/documents/2022/12/07/2022-26554/common-instructions-for-applicants-to-department-of-education-discretionary-grant-programs,* which contain requirements and information on how to submit an application. Please note that these Common Instructions supersede the version published on December 27, 2021.

2. *Intergovernmental Review:* This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

3. *Funding Restrictions:* We specify unallowable costs in 34 CFR 664.33. We reference additional regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

4. *Recommended Page Limit:* The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you (1) limit the application narrative to no more than 40 pages and (2) use the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double-space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger, or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to the cover sheet or budget section, including the narrative budget justification; the assurance and certifications; or the one-page abstract, the resumes, the biography, or letters of support. However, the recommended page limit does apply to all of the application narrative.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this program are from 34 CFR 664.31 and are as follows:

(a) *Plan of operation.* (20 points)

(1) The Secretary reviews each application for information to determine the quality of the plan of operation for the project.

(2) The Secretary looks for information that shows—

(i) High quality in the design of the project;

(ii) An effective plan of management that ensures proper and efficient administration of the project;

(iii) A clear description of how the objectives of the project relate to the purpose of the program;

(iv) The way the applicant plans to use its resources and personnel to achieve each objective; and

(v) A clear description of how the applicant will ensure that project participants who are otherwise eligible to participate are selected without regard to race, color, national origin, gender, age, or handicapping condition.

(b) *Quality of key personnel.* (10 points)

(1) The Secretary reviews each application for information to determine the quality of key personnel the applicant plans to use on the project.

(2) The Secretary looks for information that shows—

(i) The qualifications of the project director;

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (b)(2)(i) and (ii) of this section will commit to the project; and

(iv) The extent to which the applicant, as part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or handicapping condition.

(3) To determine the qualifications of a person, the Secretary considers evidence of past experience and training in fields related to the objectives of the project as well as other information that the applicant provides.

(c) *Budget and cost effectiveness.* (10 points)

(1) The Secretary reviews each application for information that shows that the project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(d) *Evaluation plan.* (20 points)

(1) The Secretary reviews each application for information that shows the quality of the evaluation plan for the project.

(2) The Secretary looks for information that shows that the methods of evaluation are appropriate for the project and, to the extent possible, are objective and produce data that are quantifiable.

(e) *Adequacy of resources.* (5 points)

(1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources to the project.

(2) The Secretary looks for information that shows that the facilities, equipment, and supplies that the applicant plans to use are adequate.

(f) *Specific program criteria.* (35 points)

(1) In addition to the general selection criteria contained in this section, the Secretary reviews each application for information that shows that the project meets the specific program criteria.

(2) The Secretary looks for information that shows—

(i) The potential impact of the project on the development of the study of modern foreign languages and area studies in American education. (15 points)

(ii) The project's relevance to the applicant's educational goals and its relationship to its program development in modern foreign languages and area studies. (10 points)

(iii) The extent to which direct experience abroad is necessary to achieve the project's objectives and the effectiveness with which relevant host country resources will be utilized. (10 points)

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

For FY 2023, proposed GPA short-term projects will be reviewed by peer review panels with expertise in the world area that is the focus of the application. All proposed GPA long-term projects will be reviewed by one peer review panel. The International and Foreign Language Education office

will prepare separate rank order slates for GPA short-term projects and GPA long-term projects recommended for new awards in FY 2023. Each slate will include the peer reviewers' scores for all applications evaluated, from the highest score to the lowest score. In cases where several applications have the same final numerical score in the rank order listing, and there are insufficient funds to support all the applications, the scores under Criterion (f)(2)(iii) will be used as a tiebreaker. If the scores remain tied, then the scores under Criterion (f)(2)(i) will be used to break the tie.

3. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.206, before awarding grants under this competition the Department conducts a review of the risks posed by applicants. Under 2 CFR 200.208, the Secretary may impose specific conditions and, under 2 CFR 3474.10, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

4. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $250,000), under 2 CFR 200.206(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management (SAM). You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

5. *In General:* In accordance with the Office of Management and Budget's guidance located at 2 CFR part 200, all applicable Federal laws, and relevant Executive guidance, the Department will review and consider applications for funding pursuant to this notice inviting applications in accordance with—

(a) Selecting recipients most likely to be successful in delivering results based on the program objectives through an objective process of evaluating Federal award applications (2 CFR 200.205);

(b) Prohibiting the purchase of certain telecommunication and video surveillance services or equipment in alignment with section 889 of the National Defense Authorization Act of 2019 (Pub. L. 115–232) (2 CFR 200.216);

(c) Providing a preference, to the extent permitted by law, to maximize use of goods, products, and materials produced in the United States (2 CFR 200.322); and

(d) Terminating agreements in whole or in part to the greatest extent authorized by law if an award no longer effectuates the program goals or agency priorities (2 CFR 200.340).

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Open Licensing Requirements:* Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee or subgrantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and selected for funding. For additional information on the open licensing requirements please refer to 2 CFR 3474.20.

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

5. *Performance Measures:* For the purposes of Department reporting under 34 CFR 75.110, the following measure will be used by the Department to evaluate the success of the GPA short-term program: the percentage of GPA short-term project participants who disseminated information about or materials from their group project abroad through more than one outreach activity within 6 months of returning to their home institution. The following measure will be used by the Department to evaluate the success of the GPA long-term program: the percentage of GPA long-term project participants who increased their reading, writing, and/or listening/speaking foreign language scores by one proficiency level. The efficiency of the GPA long-term program will be measured by considering the cost per GPA participant who increased his/her foreign language score in reading, writing, and/or listening/speaking by at least one proficiency level.

The information provided by grantees in their performance reports submitted via the International Resource Information System (IRIS) will be the source of data for this measure. Reporting screens for institutions can be viewed at: *http://iris.ed.gov/iris/pdfs/*

gpa_director.pdf and *http://iris.ed.gov/iris/pdfs/gpa_participant.pdf.*

VII. Other Information

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document and a copy of the application package in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Nasser H. Paydar,

Assistant Secretary for Postsecondary Education.

[FR Doc. 2023–01585 Filed 1–25–23; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 15271–000]

Premium Energy Holdings, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On March 31, 2022, Premium Energy Holdings, LLC filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Twitchell Pumped Storage Hydro Project to be located approximately 6 miles northeast of Santa Maria, California in the limits between San Luis Obispo and Santa Barbara Counties. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following: (1) a new upper reservoir located either, on the western side of the Sierra Madre Mountains in Santa Barbara County, California, with a maximum elevation of 1,788 feet average mean sea level, with a surface area of 72 acres and a storage capacity of 7,150 acre-feet (alternative 1), or a new reservoir 0.5 mile west of Twitchell Lake with a maximum elevation of 1,296 feet average mean sea level, with a surface area of 83 acres and a storage capacity of 11,400 acre-feet (alternative 2); (2) an existing lower reservoir (Twitchell Reservoir), with an elevation of 592 feet average mean sea level, a surface area of approximately 400 acres and a storage capacity of 197,756 acre-feet; (3) either a 0.32-mile-long headrace tunnel, 0.07-mile-long vertical shaft, 2.20-mile-long horizontal tunnel, 0.03-mile-long penstock, and 0.46-mile-long tailrace tunnel (alternative A), or a 0.16-mile-long headrace tunnel, 0.04-mile-long vertical shaft, 1.10-mile-long horizontal tunnel, 0.02-mile-long penstock, and 0.23-mile long tailrace tunnel (alternative B) connecting the reservoirs to the powerhouse, with a maximum head of 704 or 1,196 feet depending on the selected upper reservoir; (4) either a new 9-mile-long 230-kilovolt (kV) line and 2.5 miles of SCE's existing right of way that will interconnect the project with the existing PG&E transmission system at the Mesa Substation (alternative 1), or a 230-kV line that would be installed that would interconnect at a future substation that would be a part of the Central California Power Connect project (alternative 2); (5) a new powerhouse that would house 4 new pump-turbines rated at 150 megawatts each; (6) a new substation installed on the northern or southern side of the Twitchell Reservoir depending on the upper reservoir alternatives, close to the powerhouse; and (7) appurtenant facilities. The estimated annual power generation at the Twitchell Pumped Storage Project would be 1,200,000 megawatt-hours.

Applicant Contact: Victor M. Rojas, Managing Director, Premium Energy Holdings, LLC. 355 South Lemon Ave., Suite A, Walnut, California 91789; phone: (909) 595–5314; *victor.rojas@pehllc.net.*

FERC Contact: Benjamin Mann; email: *benjamin.mann@ferc.gov;* phone: (202) 502–8127.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at *https://ferconline.ferc.gov/eFiling.aspx.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *https://ferconline.ferc.gov/QuickComment.aspx.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support. In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include docket number P–15271.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's website at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–15271) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: January 19, 2023.

Kimberly D. Bose,

Secretary.

[FR Doc. 2023–01489 Filed 1–25–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2354–166]

Georgia Power Company; Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed

with the Commission and is available for public inspection:

a. *Application Type:* Non-capacity Amendment of License.

b. *Project No:* 2354–166.

c. *Date Filed:* December 16, 2022.

d. *Applicant:* Georgia Power Company.

e. *Name of Project:* North Georgia Project.

f. *Location:* Savannah River basin on the Tallulah, Chattooga, and Tugalo Rivers, in Rabun, Habersham, and Stephens counties, Georgia, and Oconee County, South Carolina.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Courtenay O'Mara, 241 Ralph McGill Boulevard, NE BIN 10193, Atlanta, Georgia 30308–3374, 404–506–7219, *cromara@southernco.com.*

i. *FERC Contact:* Aneela Mousam, (202) 502–8357, *aneela.mousam@ferc.gov.*

j. *Deadline for filing comments, motions to intervene, and protests:* February 20, 2023.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include the docket number P–2354–166. Comments emailed to Commission staff are not considered part of the Commission record.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Request:* The applicant proposes to replace the existing bottom hinged spillway gates and flashboards with Obermeyer gates, replace the trashracks at the intake, and construct a control room to house the equipment and instrumentation needed to operate the new Obermeyer gates at the Tallulah Falls Development of the project. The Obermeyer gates are necessary for the continued operation of the Tallulah Falls Dam, and would allow the applicant to regulate reservoir elevations more effectively. The applicant would perform all work to install the Obermeyer gates behind a bulkhead that would be anchored on the upstream side of the dam. The Obermeyer gate installation is expected to last 18 to 24 months. This proposed action does not require a drawdown of Tallulah Falls Lake. The ground disturbance associated with the new control building construction would be on an upland parcel less than 1-acre in size, and would not require a National Pollutant Discharge Elimination System permit. The project would continue to operate under the terms of its current license including continued minimum flow releases, and applicable Water Quality Certification.

l. *Locations of the Application:* This filing may be viewed on the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. Agencies may obtain copies of the application directly from the applicant.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

Dated: January 19, 2023.

Kimberly D. Bose,

Secretary.

[FR Doc. 2023–01491 Filed 1–25–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 9886–034]

Valatie Falls Hydro Power, Inc.; Notice of Intent To File License Application, Filing of Pre-Application Document, Approving Use of the Traditional Licensing Process

January 13, 2023.

a. *Type of Filing:* Notice of Intent to File License Application and Request to Use the Traditional Licensing Process.

b. *Project No.:* 9886–034.

c. *Date Filed:* November 30, 2022.

d. *Submitted By:* Valatie Falls Hydro Power, Inc. (Valatie Falls).

e. *Name of Project:* Valatie Falls Hydroelectric Project.

f. *Location:* On the Kinderhook Creek in the Town of Kinderhook, Village of Valatie, Columbia County, New York. The project does not occupy any federal land.

g. *Filed Pursuant to:* 18 CFR 5.3 of the Commission's regulations.

h. *Potential Applicant Contact:* John E. Doran, Valatie Falls Hydro Power, Inc., 7 Cotton Mill Lane, Valatie, NY 12184; (855) 467–3751; email—*jdoran@pisoev.com.*

i. *FERC Contact:* Jacob Harrell at (202) 502–7313; or email at *jacob.harrell@ferc.gov.*

j. Valatie Falls filed its request to use the Traditional Licensing Process on November 30, 2022. Valatie Falls provided public notice of its request on November 30, 2022. In a letter dated January 13, 2023, the Director of the Division of Hydropower Licensing approved Valatie Falls' request to use the Traditional Licensing Process.

k. With this notice, we are initiating informal consultation with the U.S. Fish and Wildlife Service under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR part 402. We are also initiating consultation with the New York State Historic Preservation Officer, as required by section 106, National Historic Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating Valatie Falls as the Commission's non-federal representative for carrying out informal consultation pursuant to section 7 of the Endangered Species Act and consultation pursuant to section 106 of the National Historic Preservation Act.

m. Valatie Falls filed a Pre-Application Document (PAD; including a proposed process plan and schedule) with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

n. A copy of the PAD may be viewed on the Commission's website (*http://www.ferc.gov*), using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field, to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208 3676 (toll free), or (202) 502–8659 (TTY).

o. The licensee states its unequivocal intent to submit an application for a subsequent license for Project No. 9886. Pursuant to 18 CFR 16.20, each application for a subsequent license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by November 30, 2025.

p. Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Kimberly D. Bose,

Secretary.

[FR Doc. 2023–01572 Filed 1–25–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 15274–000]

Hurricane Cliffs PSH, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On April 22, 2022, Hurricane Cliffs PSH, LLC filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Hurricane Cliffs Pumped Storage Project to be located approximately 8 miles south of Hurricane, Utah. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would be primarily located on Bureau of Land Management land and consist of the following: (1) a new upper reservoir at a normal maximum operating elevation of 4,270 feet average mean sea level, with a surface area of 200 acres and a total storage capacity of 3,920 acre-feet; (2) a new lower reservoir at a normal maximum operating elevation of 3,550 feet average mean sea level, with a surface area of 125 acres and a total storage capacity of 4,200 acre-feet; (3) a new 1,500-foot-long low-pressure tunnel, 570-foot-long vertical shaft, 1,440-foot-long high pressure tunnel, two 600-foot-long buried headrace pipes, and a 2,700-foot-long tailrace tunnel or channel connecting the two reservoirs with a maximum head of 1,230 feet; (3) a new 300-foot-long, 100-foot-wide, and 50-foot-high powerhouse complex comprised of three 85-foot-diameter shafts, each 250 feet deep and housing a 166.6 megawatt reversible pump-turbine unit, and a subsurface powerhouse building; (4) a new 25.3-mile-long (alternative A), or 25.9 mile-long (alternative B), 345-kilovolt (kV) transmission line connecting the powerhouse to PacifiCorp's Purgatory Flat substation; and (7) appurtenant facilities. The estimated annual power generation at the Hurricane Cliffs Pumped Storage Project would be 876,000 megawatt-hours.

Applicant Contact: Matthew Shapiro, rPlus Hydro, LLLP, 201 S. Main St. Ste. 2100, Salt Lake City, Utah, 84111; phone: (208) 246–9925; *mshapiro@rplushydro.com.*

FERC Contact: Benjamin Mann; email: *benjamin.mann@ferc.gov*; phone: (202) 502–8127.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at *https://ferconline.ferc.gov/eFiling.aspx.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *https://ferconline.ferc.gov/QuickComment.aspx.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support. In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include docket number P–15274.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's website at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–15274) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: January 19, 2023.

Kimberly D. Bose,

Secretary.

[FR Doc. 2023–01493 Filed 1–25–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP22–21–000; Docket No. CP22–22–000]

Venture Global CP2 LNG, LLC, Venture Global CP Express, LLC; Notice of Availability of the Draft Environmental Impact Statement for the Proposed CP2 LNG AND CP Express Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared a draft environmental impact statement (EIS) for the CP2 LNG and CP Express Projects (Project), proposed by Venture Global CP2 LNG, LLC (CP2 LNG) and Venture Global CP Express, LLC (CP Express) in the above-referenced dockets. CP2 LNG and CP Express request authorizations to construct, install, own, operate, and maintain certain liquefied natural gas (LNG) facilities in Cameron Parish, Louisiana and certain pipeline facilities in Cameron and Calcasieu Parishes, Louisiana and Jasper and Newton Counties, Texas.

The draft EIS assesses the potential environmental effects of the construction and operation of the Project in accordance with the requirements of the National Environmental Policy Act (NEPA). The FERC staff concludes that approval of the proposed Project, with the mitigation measures recommended in the EIS, would have some adverse environmental impact. However, most of these impacts would be avoided or reduced to less-than-significant levels, with the exception of climate change and visual resources, including cumulative visual impacts, and visual impacts on environmental justice communities in the region. Climate change impacts are not characterized in the EIS as significant or insignificant.

The U.S. Army Corps of Engineers New Orleans and Galveston Districts, U.S. Department of Energy, U.S. Coast Guard, U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration, and National Marine Fisheries Service participated as cooperating agencies in the preparation of the EIS. Cooperating agencies have jurisdiction by law or special expertise with respect to resources potentially affected by the proposal and participate in the NEPA analysis. The U.S. Army Corps of Engineers New Orleans and Galveston Districts will adopt and use the EIS to consider compliance with Section 404 of the Clean Water Act of 1972, as amended and Section 10 of the Rivers and Harbors Act of 1899. Although the cooperating agencies provided input to the conclusions and recommendations presented in the draft EIS, the agencies will present their own conclusions and recommendations in their respective Records of Decision for the Project.

The draft EIS addresses the potential environmental effects of the construction and operation of the following Project facilities:

- a liquefaction plant consisting of 18 liquefaction blocks and ancillary support facilities, each block having a nameplate capacity of about 1.1 million tonnes per annum of LNG;
- six pretreatment systems, each including an amine gas-sweetening unit to remove carbon dioxide (CO_2) and a molecular sieve dehydration system to remove water;
- four 200,000 cubic meter aboveground full containment LNG storage tanks (two per phase) with cryogenic pipeline connections to the liquefaction plant and to the berthing docks;
- carbon capture and sequestration facilities, including carbon capture equipment within the terminal site as well as a non-jurisdictional CO_2 send-out pipeline outside of the terminal site; [1]
- a combined cycle natural gas turbine power plant with a nameplate capacity of 1,470 megawatts;
- two marine LNG loading docks and turning basins and two cryogenic lines for LNG transfer from the storage tanks to the docks;
- administration, control, maintenance, and warehouse buildings and related parking lots;
- 85.4 miles of 48-inch-diameter natural gas pipeline (CP Express Pipeline);
- 6.0 miles of 24-inch-diameter natural gas lateral pipeline connecting to the CP Express Pipeline in northwest Calcasieu Parish (Enable Gulf Run Lateral);
- one 187,000-horsepower natural gas-fired compressor station (Moss Lake Compressor Station);
- six meter stations (five at interconnects with existing pipelines and one at the terminus of the CP Express Pipeline within the Terminal Site); and
- other appurtenant facilities.[2]

The Commission mailed a copy of the *Notice of Availability* of the draft EIS to federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American tribes; potentially affected landowners and other interested individuals and groups; and newspapers and libraries in the Project area. The draft EIS is only available in electronic format. It may be viewed and downloaded from the FERC's website (*www.ferc.gov*), on the natural gas environmental documents page (*https://www.ferc.gov/industries-data/natural-gas/environment/environmental-documents*). In addition, the draft EIS may be accessed by using the eLibrary link on the FERC's website. Click on the eLibrary link (*https://elibrary.ferc.gov/eLibrary/search*) select ''General Search'' and enter the docket number in the ''Docket Number'' field, excluding the last three digits (*i.e.* CP22–21 or CP22–22). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

The number of pages in the draft EIS exceeds the page limits set forth in the Council on Environmental Quality's July 16, 2020 final rule, Update to the Regulations Implementing the Procedural Provisions of the National Environmental Policy Act (85 FR 43304). Noting the scope and complexity of the proposed action and action alternatives, the Director of the Office of Energy Projects, as our senior agency official, has authorized this page limit exceedance for this draft EIS.

The draft EIS is not a decision document. It presents Commission staff's independent analysis of the environmental issues for the Commission to consider when addressing the merits of all issues in this proceeding. Any person wishing to comment on the draft EIS may do so. Your comments should focus on draft EIS's disclosure and discussion of potential environmental effects, measures to avoid or lessen environmental impacts, and the completeness of the submitted alternatives, information, and analyses. To ensure consideration of your comments on the proposal in the final EIS, it is important that the Commission receive your comments on or before 5:00 p.m. Eastern Time on March 13, 2023.

For your convenience, there are four methods you can use to submit your comments to the Commission. The

[1] CP2 LNG anticipates this pipeline would be installed under the southern portion of the Terminal Site floodwall and terminate at a non-jurisdictional offshore platform in State of Louisiana waters.

[2] The LNG terminal would also include the following non-jurisdictional facilities: electrical transmission line and substation, water pipeline, septic system, and stormwater facilities/outfalls.

Commission will provide equal consideration to all comments received, whether filed in written form or provided orally. The Commission encourages electronic filing of comments and has staff available to assist you at (866) 208–3676 or *FercOnlineSupport@ferc.gov*. Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the eComment feature on the Commission's website (*www.ferc.gov*) under the link to FERC Online. This is an easy method for submitting brief, text-only comments on a project;

(2) You can file your comments electronically by using the eFiling feature also on the Commission's website (*www.ferc.gov*) under the link to FERC Online. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''eRegister.'' If you are filing a comment on a particular project, please select ''Comment on a Filing'' as the filing type;

(3) You can file a paper copy of your comments by mailing them to the Commission. Be sure to reference the Project docket number (CP22–21 and CP22–22) on your letter. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852; or

(4) In lieu of sending written or electronic comments, the Commission invites you to attend one of the public comment sessions its staff will conduct in the Project area to receive comments on the draft EIS, scheduled as follows:

Date and Time	Location
Wednesday, March 1, 2023, 5:00 p.m.–8:00 p.m.	Ward 7 Community Center, 1615 Horridge Street, Vinton, LA 70668, (337) 589–5181.
Thursday, March 2, 2023, 5:00 p.m.–8:00 p.m.	Cameron Parish Police Jury Room, 148 Smith Circle, Cameron, LA 70631, (337) 775–5718.

The primary goal of these comment sessions is to have you identify the specific environmental issues and concerns with the draft EIS. Individual oral comments will be taken on a one-on-one basis with a court reporter. This format is designed to receive the maximum amount of oral comments, in a convenient way during the timeframe allotted.

Each comment session is scheduled from 5:00 p.m. to 8:00 p.m. Central Standard Time. You may arrive at any time after 5:00 p.m. There will not be a formal presentation by Commission staff when the session opens. If you wish to speak, the Commission staff will hand out numbers in the order of your arrival. Comments will be taken until 8:00 p.m. However, if no additional numbers have been handed out and all individuals who wish to provide comments have had an opportunity to do so, staff may conclude the session at 7:30 p.m.

Your oral comments will be recorded by the court reporter (with FERC staff or representative present) and become part of the public record for this proceeding. Transcripts will be publicly available on FERC's eLibrary system (see page 3 for instructions on using eLibrary). If a significant number of people are interested in providing oral comments in the one-on-one settings, a time limit of 5 minutes may be implemented for each commentor. Although there will not be a formal presentation, Commission staff will be available throughout the comment session to answer your questions about the environmental review process.

It is important to note that the Commission provides equal consideration to all comments received, whether filed in written form or provided orally at a comment session.

Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR part 385.214). Motions to intervene are more fully described at *https://www.ferc.gov/how-intervene*. Only intervenors have the right to seek rehearing or judicial review of the Commission's decision. The Commission grants affected landowners and others with environmental concerns intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which no other party can adequately represent. Simply filing environmental comments will not give you intervenor status, but you do not need intervenor status to have your comments considered.

Questions?

Additional information about the Project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website (*www.ferc.gov*) using the eLibrary link. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription that allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *https://www.ferc.gov/ferc-online/overview* to register for eSubscription.

Dated: January 19, 2023.

Kimberly D. Bose,

Secretary.

Appendix 1

Session Format

FERC is conducting the session to solicit your comments on the Draft Environmental Impact Statement. There will not be a formal presentation by Commission staff; however, FERC staff is available to answer questions about the environmental review process. The session format is as follows:

- Tickets are handed out on a ''first come, first serve'' basis starting at the time listed in the Notice.
- Individuals are called in ticket number order to provide oral comments to be transcribed by a court reporter for the public record.
- Time limits on oral comments may be enforced to ensure that all those wishing to comment have the opportunity to do so within the designated session time.
- Written comments may be submitted in addition to, or in lieu of, oral comments.
- Additional materials about FERC and the environmental review process are available at information stations at the session.

Session Conduct

Proper conduct will help the sessions maintain a respectful atmosphere for attendees to learn about the FERC Environmental Review Process and to be able to provide comments effectively.

- Loudspeakers, lighting, oversized visual aids, or other visual or audible disturbances are not permitted.
- Disruptive video and photographic equipment may not be used.
- Conversations should be kept to a reasonable volume. Attendees should be respectful of those providing oral comments to the court reporters.
- Recorded interviews are not permitted within the session space.
- FERC reserves the right end the session if disruptions interfere with the opportunity for individuals to provide oral comments or if there is a safety or security risk.

[FR Doc. 2023–01492 Filed 1–25–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 15272–000]

Premium Energy Holdings, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On March 31, 2022, Premium Energy Holdings, LLC filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Whale Rock Pumped Storage Hydro Project to be located approximately 0.5 miles east of Cayucos, California in San Luis Obispo County. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed closed-loop project would consist of the following: (1) a new upper reservoir with a normal maximum operating elevation of 1,788 feet average mean sea level, a surface area of 87 acres, and a total storage capacity of 4,780 acre-feet; (2) an existing lower reservoir (Whale Rock Reservoir completed in 1961); (3) a 0.68-mile-long headrace tunnel, 0.16-mile-long vertical shaft, 4.76-mile-long horizontal tunnel, 0.07-mile-long penstock, and 0.99-mile-long tailrace tunnel with a maximum head of 1,558 feet connecting the reservoirs to the powerhouse; (4) a new powerhouse located on land owned by the State of California that would house 4 new pump-turbines rated at 150 megawatts each; (5) a new substation constructed on the southern shore of Lake Nacimiento near the powerhouse connected to the regional electrical utility with either, (6) 7 miles of existing line (upgraded), interconnecting the Morro—Solar 230-kilovolt (kV) transmission line, or 7 miles of existing line (upgraded), interconnecting the Morro—Diablo 230-kV transmission line and 0.5 miles of new right-of-way south of the Baywood substation for the new tap interconnection; and (7) appurtenant facilities. The estimated annual power generation at the Whale Rock Pumped Storage Project would be 1,200,000 megawatt-hours.

Applicant Contact: Victor M. Rojas, Managing Director, Premium Energy Holdings, LLC. 355 South Lemon Ave., Suite A, Walnut, California 91789; phone: (909) 595–5314; *victor.rojas@pehllc.net.*

FERC Contact: Benjamin Mann; email: *benjamin.mann@ferc.gov;* phone: (202) 502–8127.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at *https://ferconline.ferc.gov/eFiling.aspx.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *https://ferconline.ferc.gov/QuickComment.aspx.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support. In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include docket number P–15272.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's website at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–15272) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: January 19, 2023.

Kimberly D. Bose,

Secretary.

[FR Doc. 2023–01488 Filed 1–25–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 15269–000]

Premium Energy Holdings, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On March 31, 2022, Premium Energy Holdings, LLC filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Nacimiento Pumped Storage Hydro Project to be located approximately 27 miles northwest of Highway 101 in Paso Robles, California in San Luis Obispo County. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed closed-loop project would consist of the following: (1) a new upper reservoir at a normal maximum operating elevation of either 1,952 feet average mean sea level, with a surface area of 85 acres and a total storage capacity of 7,500 acre-feet (alternative A), or 1,788 feet average mean sea level, with a surface area of 72 acres and a total storage capacity of 8,000 acre-feet (alternative B); (2) an existing lower reservoir (Lake Nacimiento, completed in 1956 for flood control, irrigation water, groundwater recharge for the Salinas Valley, and recreational activities); (3) either a 0.74 mile-long headrace tunnel, 0.17-mile-long vertical shaft, 5.13-mile-long horizontal tunnel, 0.07-mile-long penstock, and 1.06-mile-long tailrace tunnel with a maximum head of 987 feet (alternative A), or a 0.42-mile-long headrace tunnel, 0.10-mile-long vertical shaft, 2.93-mile-long horizontal tunnel, 0.04-mile-long penstock, and-0.61 mile long tailrace tunnel with a maximum head of 1,151 feet (alternative B) connecting the reservoirs to the powerhouse; (4) a new powerhouse located on land owned by the County of Monterey that would house 4 new pump-turbines rated at 150 megawatts each; (5) a new substation constructed in the southern shore of Lake Nacimiento near the powerhouse connected to the regional electrical utility with either; (6) a new 21-mile-long 230-kilovolt (kV) transmission line

interconnecting at the existing 60-kV Perry Substation (existing lines would be upgraded to 230-kV, as required) (alternative 1) or a new 26-mile-long 230-kV transmission line interconnecting PG&E's network at the existing 60-kV Paso Robles Substation (existing lines would be upgraded to 230-kV as required) (alternative 2), or a new 28-mile-long 230-kV transmission line interconnecting PG&E's network at the existing 230-kV Templeton Substation (no upgrades necessary) (alternative 3); and (7) appurtenant facilities. The estimated annual power generation at the Nacimiento Pumped Storage Project would be 1,200,000 megawatt-hours.

Applicant Contact: Victor M. Rojas, Managing Director, Premium Energy Holdings, LLC. 355 South Lemon Ave., Suite A, Walnut, California 91789; phone: (909) 595–5314; *victor.rojas@pehllc.net.*

FERC Contact: Benjamin Mann; email: *benjamin.mann@ferc.gov;* phone: (202) 502–8127.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at *https://ferconline.ferc.gov/eFiling.aspx.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *https://ferconline.ferc.gov/QuickComment.aspx.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support. In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include docket number P–15269.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's website at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–15269) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: January 19, 2023.

Kimberly D. Bose,

Secretary.

[FR Doc. 2023–01490 Filed 1–25–23; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2022–0027; FRL–10609–01–OMS]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; NESHAP for Stationary Combustion Turbines (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), NESHAP for Stationary Combustion Turbines (EPA ICR Number 1967.09, OMB Control Number 2060–0540), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through January 31, 2023. Public comments were previously requested, via the **Federal Register**, on July 22, 2022 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

DATES: Comments may be submitted on or before February 27, 2023.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OAR–2022–0027, to EPA online using *https://www.regulations.gov/* (our preferred method), or by email to *docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

The EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

Submit written comments and recommendations to OMB for the proposed information collection within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Muntasir Ali, Sector Policies and Program Division (D243–05), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–0833; email address: *ali.muntasir@epa.gov.*

SUPPLEMENTARY INFORMATION: This is a proposed extension of the ICR, which is currently approved through January 31, 2023. An agency may neither conduct nor sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Public comments were previously requested, via the **Federal Register** (87 FR 43843), on July 22, 2022 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *https://www.regulations.gov,* or in person, at the EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit: *http://www.epa.gov/dockets.*

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Stationary Combustion Turbines (40 CFR part 63, subpart YYYY) were proposed on January 14, 2003; promulgated on March 5, 2004; and amended on: April 20, 2006; November 20, 2019; and March 9, 2020. The regulations apply to sources that commenced either construction or reconstruction after January 14, 2003. On August 18, 2004, these standards were amended to stay the effectiveness for the two gas-fired stationary combustion turbine subcategories (*i.e.,* lean pre-mix gas-fired turbines and diffusion flame gas-fired turbines). Amendments to the NESHAP were finalized on March 9, 2020, as a result of a residual risk and technology review (RTR) required under the Clean Air Act (CAA). Additionally, the EPA removed the stay of the effectiveness of the standards for new lean premix and

diffusion flame gas-fired turbines that was promulgated in 2004 on March 9, 2022. New facilities include those that commenced either construction, or modification or reconstruction after January 14, 2003. This information is being collected to assure compliance with 40 CFR part 63, subpart YYYY.

In general, all NESHAP standards require initial notifications, performance tests, and periodic reports by the owners/operators of the affected facilities. They are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These notifications, reports, and records are essential in determining compliance, and are required of all affected facilities subject to NESHAP.

Form Numbers: 5900–600.

Respondents/affected entities: Owners or operators of stationary combustion turbines.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart YYYY).

Estimated number of respondents: 280 (total).

Frequency of response: Initially, semiannually, annually.

Total estimated burden: 8,490 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $1,060,000 (per year), which includes $37,100 in annualized capital/startup and/or operation & maintenance costs.

Changes in the Estimates: The increase in burden from the most-recently approved ICR is due to adjustments. The change in burden for the new and existing facilities is due primarily to implementation of prior amendments to the regulation. An amendment finalized in March 2022 removed the stay of effectiveness for standards implemented in 2004. The removed stay affected standards of new lean premix and diffusion flame gas-fired turbines. This led to an adjustment increase in burden from the most-recently approved ICR since there is an increase in the number of existing sources required to meet the notification, recordkeeping, and reporting requirements over the next three years. During the development of rule amendments in 2020 and 2022, EPA collaborated with industry to investigate an estimate of existing sources. The data collected by EPA indicated an additional 158 sources were identified compared to the previous ICR. As a result, we identified 246 existing facilities subject to Subpart YYYY. This ICR assumes a continuous growth rate of 8 new gas-fired turbines per year based on the industry growth rate in the currently-approved ICR and information collected during the 2020 and 2022 rulemakings.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2023–01546 Filed 1–25–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–R05–SFUND–2023–0019; FRL–10575–01-Region 5]

Proposed CERCLA Administrative Cost Recovery Settlement; Tittabawassee River, Saginaw River and Bay Site, Michigan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (''CERCLA''), notice is hereby given by the U.S. Environmental Protection Agency (''EPA''), Region 5, of a proposed administrative settlement for recovery of past response costs concerning the Tittabawassee River, Saginaw River and Bay Site, Michigan (the Site) with The Dow Chemical Company. The settlement requires the settling party to pay $5,415,846.64 in past response costs to a Special Account. The settlement includes a covenant not to sue pursuant to sections 106 and 107 of CERCLA, relating to the Site, subject to limited reservations, and protection from contribution actions or claims as provided by Section 113(f)(2) of CERCLA. For thirty (30) days following the date of publication of this notice, EPA will accept written comments relating to the cost recovery component of this settlement. EPA will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations that indicate that the proposed settlement is inappropriate, improper, or inadequate. The proposed settlement is available for public inspection at *https://www.regulations.gov,* Docket ID EPA–R05–SFUND–2023–0019, at EPA Region 5 offices at 77 West Jackson Blvd., Chicago, IL 60604, and at *https://www.epa.gov/superfund/tittabawassee-river*. EPA's response to any comments received will be available for public inspection at *https://www.epa.gov/superfund/tittabawassee-river*.

DATES: Comments must be submitted on or before February 27, 2023.

ADDRESSES: Submit your comments, identified by Docket ID EPA–R05–SFUND–2023–0019, to the Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or withdrawn. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets*.

FOR FURTHER INFORMATION CONTACT: Colleen Moynihan, Remedial Project Manager, EPA, Superfund & Emergency Management Division, Region 5, Cleveland Office, 25063 Center Ridge Road, Westlake, OH 44145, email address: *moynihan.colleen@epa.gov,* telephone number: (440) 250–1702; or Jeffrey A. Cahn, Associate Regional Counsel, EPA, Office of Regional Counsel, Region 5, 77 West Jackson Blvd., Mail code: C–14J, Chicago, IL 60604, telephone number: (312) 886–6670, email address: *cahn.jeff@epa.gov*.

Douglas Ballotti,

Director, Superfund & Emergency Management Division, Region 5.

[FR Doc. 2023–01494 Filed 1–25–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2022–0019; FRL–10607–01–OMS]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; NESHAP for the Manufacture of Amino/Phenolic Resins (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), NESHAP for the Manufacture of Amino/Phenolic Resins (EPA ICR Number 1869.12, OMB Control Number 2060–0434) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through January 31, 2023. Public comments were previously requested via the **Federal Register** on July 22, 2022 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

DATES: Comments may be submitted on or before February 27, 2023.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OAR–2022–0019, to EPA online using *www.regulations.gov* (our preferred method), by email to *a-and-r-Docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460. EPA's policy is that all comments received will be included in the public docket without change including any personal information provided unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

Submit written comments and recommendations to OMB for the proposed information collection within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Muntasir Ali, Sector Policies and Program Division (D243–05), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina, 27711; telephone number: (919) 541–0833; email address: *ali.muntasir@epa.gov.*

SUPPLEMENTARY INFORMATION: This is a proposed extension of the ICR, which is currently approved through January 31, 2023. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

Public comments were previously requested via the **Federal Register** on July 22, 2022 during a 60-day comment period (87 FR 43843). This notice allows for an additional 30 days for public comments. Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for the Manufacture of Amino/Phenolic Resins (40 CFR part 63, subpart OOO) were proposed on December 14, 1998; promulgated on January 20, 2000; and amended on: April 20, 2006; October 8, 2014; October 15, 2018; and November 19, 2020. These regulations apply to existing facilities and new facilities that manufacture amino/phenolic resins with HAP emissions points that include: (1) reactor batch process vents; (2) nonreactor batch process vents; (3) continuous process vents; (4) equipment leaks; (5) wastewater; (6) storage vessels; and (7) heat exchangers. New facilities include those that either commenced construction, modification, or reconstruction after the date of the proposal. This information is being collected to assure compliance with 40 CFR part 63, subpart OOO.

In general, all NESHAP standards require initial notifications, performance tests, and periodic reports by the owners/operators of the affected facilities. They are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These notifications, reports, and records are essential in determining compliance, and are required of all affected facilities subject to NESHAP.

Form Numbers: None.

Respondents/affected entities: Amino/phenolic resins manufacturing facilities.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart OOO).

Estimated number of respondents: 19 (total).

Frequency of response: Initially, occasionally, quarterly, semiannually, and annually.

Total estimated burden: 23,300 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $5,080,000 (per year), which includes $2,280,000 in annualized capital/startup and/or operation & maintenance costs.

Changes in the Estimates: There is no change in burden from the most recently approved ICR as currently identified in the OMB Inventory of Approved Burdens. This is due to two considerations: (1) the regulations have not changed over the past three years and are not anticipated to change over the next three years; and (2) the growth rate for this industry is either very low or non-existent, so there is no significant change in the overall burden. Since there are no changes in the regulatory requirements and there is no significant industry growth, there are also no changes in the capital/startup or operation and maintenance (O&M) activities. This ICR also updates the capital/startup and O&M costs from 2014 to 2020, using the annual Chemical Engineering Plant Cost Index (CEPCI).

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2023–01545 Filed 1–25–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2022–0435; FRL–10598–01–OMS]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an

information collection request (ICR), Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills (EPA ICR Number 2252.04, OMB Control Number 2060–0720), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through January 31, 2023. Public comments were previously requested, via the **Federal Register**, on July 22, 2022 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

DATES: Comments may be submitted on or before February 27, 2023.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OAR–2022–0435, to EPA online using *https://www.regulations.gov/* (our preferred method), or by email to *docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460. EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Submit written comments and recommendations to OMB for the proposed information collection within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Muntasir Ali, Sector Policies and Program Division (D243–05), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–0833; email address: *ali.muntasir@epa.gov.*

SUPPLEMENTARY INFORMATION: This is a proposed extension of the ICR, which is currently approved through January 31, 2023. An agency may neither conduct nor sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Public comments were previously requested, via the **Federal Register** (87 FR 43843), on July 22, 2022 during a 60-day comment period. This notice allows for an additional 30 days for public comments. Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *https://www.regulations.gov,* or in person at the EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit: *http://www.epa.gov/dockets.*

Abstract: EPA issued New Source Performance Standards (NSPS) and Emission Guidelines (EG) and Compliance Times for Existing Municipal Solid Waste (MSW) Landfills under the regulations published at 40 CFR part 60, subparts WWW and Cc, promulgated on March 12, 1996, revised on June 16, 1998, and February 24, 1999. The Federal plan requirements implementing the regulations were published at 40 CFR part 62, subpart GGG, promulgated on November 8, 1999. On August 29, 2016, EPA finalized 40 CFR part 60, subpart XXX, based on review of 40 CFR part 60, subpart WWW, which applies to MSW landfills that are either new, or reconstructed, or modified after July 17, 2014 (effective October 28, 2016). Concurrently, EPA finalized revised Emissions Guidelines under 40 CFR part 60, subpart Cf, which apply to existing landfills accepting waste after November 8, 1987, for which construction was commenced either on or before July 17, 2014. The revised guidelines are implemented under state or Federal plans. EPA finalized a Federal plan implementing 40 CFR part 60, subpart Cf under 40 CFR part 62, subpart OOO on May 21, 2021. This ICR includes burden for MSW landfills that are subject to the requirements of Subpart Cf, which are implemented under State plans and a 'Federal' plan (40 CFR part 62, subpart OOO). All MSW landfills that are subject to the original NSPS (40 CFR part 60, subpart WWW), the Federal plan (40 CFR part 62, subpart GGG), or a state plan implementing the original emission guidelines (40 CFR part 60, subpart Cc) were required to comply with their current requirements unless and until they are covered by a more stringent State or Federal plan implementing the emission guidelines in subpart Cf. Since EPA has finalized the Federal plan at 40 CFR part 62, subpart OOO, all respondents previously subject to Subpart WWW, a state plan implementing subpart Cc, or GGG, are now either subject to either a state plan under implementing 40 CFR part 60, subpart Cf, or must comply with the Federal plan under 40 CFR part 62, subpart OOO, or if they have modified since July 17, 2014, they must now comply with the NSPS at 40 CFR part 60, subpart XXX. Subpart Cf reduces the NMOC emission rate threshold from the previous level of 50 megagrams per year (Mg/yr) to 34 Mg/yr for landfills that are not closed as of August 29, 2016. The final rule retained the design capacity cutoff of 2.5 million Mg and 2.5 million cubic meters in the current emission guidelines. Closed landfills retain the same NMOC threshold of 50 Mg/yr, as was the case under Subpart WWW. Closed landfills are also exempted from the one-time reporting requirements, provided the landfill fulfilled requirements under the NSPS (40 CFR part 60, subpart WWW), the Federal plan (40 CFR part 62, subpart GGG), or a state plan implementing 40 CFR part 60 Subpart Cc.

Respondents/affected entities: Existing MSW landfills that have accepted waste since November 8, 1987, and commenced either construction, reconstruction, or modification on or before July 17, 2014.

Respondent's obligation to respond: Mandatory (40 CFR part 60, subpart Cf and 40 CFR part 62, subpart OOO).

Estimated number of respondents: 1,887 (total).

Frequency of response: Initially, annually.

Total estimated burden: 605,260 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $44,154,000 (per year), which includes $2,710,000 in annualized capital and/or operation & maintenance costs.

Changes in the Estimates: The decrease in burden from the currently approved ICR is due to an adjustment. The decrease in the number of respondents reflects the lower expected number of landfills controlling based on projected emissions, as well as the number of landfills subject based on waste disposal quantities which increase over time at active landfills. The number of respondents also assumes that landfills will be controlled under the more stringent 34 Mg/yr requirements. The estimates subtract out landfills expected to modify and become subject to the MSW landfill 2016 NSPS Subpart XXX instead (OMB Control Number 2060–0697). This ICR therefore reflects a decrease in the total number of respondents subject to the rule, but a similar number of controlling landfills subject to monitoring and testing requirements. There is a slight increase in burden for states/local agencies implementing state/local

agency plans due to an increase in the number of states/local agencies enforcing State Plans. There is a decrease in the capital costs due to a decrease in the number of respondents expected to install controls and therefore conduct initial performance tests and install monitoring equipment.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2023–01543 Filed 1–25–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2022–0150; FRL–10608–01–OMS]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Soil and Non-Soil Fumigants Risk Mitigation (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), ''Soil and Non-Soil Fumigants Risk Mitigation (Renewal)'' (EPA ICR Number 2451.03, OMB Control Number 2070–0197) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through January 31, 2023. Public comments were previously requested via the **Federal Register** on June 24, 2022, during a 60-day comment period. This notice allows for an additional 30 days for public comments.

DATES: Comments may be submitted on or before February 27, 2023.

ADDRESSES: Submit your comments, referencing Docket ID Number HQ–OPPT–2022–0150, to EPA online using *www.regulations.gov* (our preferred method), or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460. EPA's policy is that all comments received will be included in the public docket without change including any personal information provided unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI,) or other information whose disclosure is restricted by statute.

Submit written comments and recommendations to OMB for the proposed information collection within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Carolyn Sui, Regulatory Support Branch, 2602M, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 566–1205; email address: *sui.carolyn@epa.gov.*

SUPPLEMENTARY INFORMATION: This is a proposed extension of the ICR, which is currently approved through January 31, 2023. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

Public comments were previously requested via the **Federal Register** on June 24, 2022, during a 60-day comment period (87 FR 37856). This notice allows for an additional 30 days for public comments. Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: Pursuant to section 4(g) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA determined that several soil and non-soil fumigants are eligible for continuing registration only if specific risk mitigation measures, are adopted and adequately implemented. This ICR documents the PRA activities that users, registrants, and participating states must conduct to implement fumigant risk mitigation measures for the chemicals identified in this document. The PRA burden activities include: Registrant activities to develop and implement training for fumigators in charge of fumigations, develop and disseminate safety information for handlers, develop and implement community outreach and education programs, and develop and implement first responder training; and labeling activities for fumigant products which includes user posting requirements concerning fumigant applications around the use site, providing notice of soil fumigant applications to applicable states, preparing a Fumigant Management Plan (FMP) and Post-Application Summary (PAS) as needed, participating in an EPA-approved fumigant training program, and disseminating fumigant safe handling information to handlers.

Form Numbers: None.

Respondents/affected entities: Entities potentially affected by this ICR are soil and non-soil fumigant users, specifically certified applicators and agriculture pesticide handlers (North American Industrial Classification System (NAICS) 111000-Agriculture, Forestry, Fishing and Hunting); soil and non-soil fumigant registrants (NAICS 325300-Pesticide, Fertilizer, and Other Agricultural Chemical Manufacturing); and state and tribal lead agencies (NAICS 999200-State Government).

Respondent's obligation to respond: Mandatory (FIFRA sections 3(c)(2)(B) and 3(c)(5)).

Estimated number of respondents: 118,436 (total).

Frequency of response: On occasion.

Total estimated burden: 841,738 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $35,566,696 (per year), which includes $1,060,214 annualized capital or operation & maintenance costs.

Changes in the Estimates: There is a decrease of 309,158 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This decrease is due to the update in the estimate of number of applicators certified and handlers for soil and non-soil fumigations. There is also a decrease in burden costs for both types of fumigation due to updating the wages to the current 2021 data provided by the U.S. Bureau of Labor Statistics. This is an adjustment.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2023–01547 Filed 1–25–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2022–0924; FRL–10439–01–OCSPP]

Stakeholder Engagement Opportunities on Inflation Reduction Act Programs To Reduce Embodied Greenhouse Gas Emissions Associated With Construction Materials and Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is announcing the first opportunities for public input on new programs focused on lower carbon construction materials made possible by a $350 million investment from the Inflation Reduction Act (IRA). The Agency will hold three public webinars and is accepting written feedback on establishing the new grant and technical assistance programs and a carbon labeling program for construction materials with substantially lower levels of embodied carbon.

DATES:

Webinars: March 2, 2023, 2:00–3:30 p.m. EST. Topic: Reducing Embodied Greenhouse Gas Emissions: Construction Materials Prioritization and Environmental Data Improvement. You must register online at *https://esindustrial.webex.com/weblink/register/r3e2a14dee9e470bbe09e0c27857121b0.*

March 22, 2023, 2:00–3:30 p.m. EST. Topic: Reducing Embodied Greenhouse Gas Emissions: Grants and Technical Assistance for Environmental Product Declarations. You must register online at *https://esindustrial.webex.com/weblink/register/r7672c2c41979f2125343935a12d2ccb6.*

April 19, 2023, 2:00–3:30 p.m. EST. Topic: Reducing Embodied Greenhouse Gas Emissions: Carbon Labeling. You must register online at *https://esindustrial.webex.com/weblink/register/rfdbb89ff0328b17c371bf47c74d7bae7.*

Special accommodations: To allow EPA time to process your request for special accommodations, please submit the request on or before February 14, 2023. For information on access or services for individuals with disabilities, and to request accommodation for a disability, please contact Alison Kinn Bennett, listed under **FOR FURTHER INFORMATION CONTACT**.

Written comments: Comments must be received on or before May 1, 2023.

ADDRESSES:

Webinars: You must register online using the links listed under **DATES** in order to receive the webcast meeting link and audio teleconference information for the particular webinar.

Written Comments: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2022–0924, through the Federal eRulemaking Portal at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT:

Alison Kinn Bennett, Senior Advisor, Environmentally Preferable Purchasing Program (7409M), Office of Chemical Safety and Pollution Prevention, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–8859; email address: *kinn.alison@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. Does this action apply to me?

This is directed to the public in general. This notice may be of specific interest to persons who represent industry, program operators, institutional purchasers, researchers, academia, state, tribal, and local governments including U.S. territories and the District of Columbia, other federal agencies, community groups, non-governmental organizations, the public, and international organizations.

B. What action is the Agency taking?

EPA is announcing stakeholder engagement opportunities through upcoming webinars and a Request for Information (RFI) to help shape implementation of IRA programs under the IRA sections 60112 and 60116.

C. What should I consider as I prepare my responses for EPA?

1. *Submitting CBI.* Do not submit CBI information to EPA through *regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Multimedia submissions.* Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system).

3. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *https://www.epa.gov/dockets/comments.html.* Please note that once submitted, comments cannot be edited or removed from the docket. The EPA may publish any comment received to its public docket.

4. *Request for information and comments.* EPA has prepared a Request for Information (RFI) document that is available in the docket and is intended to facilitate your consideration and preparation of written comments. Only comments submitted directly through the Federal eRulemaking Portal at *https://www.regulations.gov* will be accepted. Electronic submission ensures timely receipt by the EPA and enables the EPA to make comments immediately available to the public. Comments posted in the *https://www.regulations.gov* website can be viewed by other commenters and interested members of the public.

Information provided in response to this RFI will inform the prioritization of work and key design elements of these new programs. EPA's questions cover the following areas:

- What construction materials/products should EPA prioritize in implementation of these programs?
- What data accessibility and improvement approaches should EPA consider?
- What standardization, measurement, verification, and reporting approaches for use in procurement decision-making should EPA consider?
- What factors should EPA consider for the Environmental Product Declaration Assistance program?
- What should be considered for setting thresholds for ''substantially lower levels'' of embodied greenhouse gas emission for qualifying materials/products under a labeling program?
- What would be the key elements of an effective carbon labeling program?

If you elect to comment, you do not need to address every question and may focus on those where you have relevant expertise or experience. Please identify the question(s) you are responding to by question number in the RFI when submitting your comments.

II. Background

In August 2022, Congress passed and President Biden signed the IRA into law, creating the largest investment to combat the climate crisis in United States history. The IRA will bolster U.S. energy security, help families save money on energy costs and prescription drugs, reduce the deficit and create

good-paying jobs. EPA received $41.5 billion in appropriations to develop and support 24 new and existing programs that monitor and reduce greenhouse gas emissions and air pollution, protect health and advance environmental justice.

These new programs funded by the IRA Sections 60112 and 60116 will provide grants, technical assistance, and tools, including a carbon label, to advance the President's bold agenda to combat the climate crisis, protect public health and advance environmental justice. The new programs will help manufacturers, institutional buyers, real estate developers, builders and others measure, report and substantially lower the levels of embodied carbon and other greenhouse gas emissions associated with the production, use and disposal of construction materials and products including steel, concrete, asphalt and glass. Additionally, this work will support President Biden's Buy Clean Task Force which is developing recommendations for Federal procurement and federally funded projects that would expand consideration of greenhouse gas emissions and other pollutants associated with construction materials.

Authority: 42 U.S.C. 1310.

Dated: January 18, 2023.

Michal Freedhoff,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2023–01501 Filed 1–25–23; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL TRADE COMMISSION

Revised Jurisdictional Thresholds

AGENCY: Federal Trade Commission.

ACTION: Notice.

SUMMARY: The Federal Trade Commission announces the revised thresholds for the Hart-Scott-Rodino Antitrust Improvements Act of 1976 required by the 2000 amendment of section 7A of the Clayton Act.

DATES: February 27, 2023.

FOR FURTHER INFORMATION CONTACT: Nora Whitehead (202–326–3100), Bureau of Competition, Premerger Notification Office, 400 7th Street SW, Room 5301, Washington, DC 20024.

SUPPLEMENTARY INFORMATION: This document announces updates to (1) the thresholds for the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as required by the 2000 amendment of section 7A of the Clayton Act; and (2) the filing fee schedule for the same Act, as required by Division GG of the 2023 Consolidated Appropriations Act. Both updates are discussed in more detail below.

(1) The Jurisdictional Thresholds

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by the Hart-Scott-Rodino Antitrust Improvements Act of 1976, Public Law 94–435, 90 Stat. 1390 (''the Act''), requires all persons contemplating certain mergers or acquisitions, which meet or exceed the jurisdictional thresholds in the Act, to file notification with the Commission and the Assistant Attorney General and to wait a designated period of time before consummating such transactions. Section 7A(a)(2) requires the Federal Trade Commission to revise those thresholds annually, based on the change in gross national product, in accordance with section 8(a)(5).

The new jurisdictional thresholds, which take effect 30 days after publication in the **Federal Register**, are as follows:

Subsection of 7A	Original jurisdictional threshold (million)	Adjusted jurisdictional threshold (million)
7A(a)(2)(A)	$200	$445.5
7A(a)(2)(B)(i)	50	111.4
7A(a)(2)(B)(i)	200	445.5
7A(a)(2)(B)(ii)(I)	10	22.3
7A(a)(2)(B)(ii)(I)	100	222.7
7A(a)(2)(B)(ii)(II)	10	22.3
7A(a)(2)(B)(ii)(II)	100	222.7
7A(a)(2)(B)(ii)(III)	100	222.7
7A(a)(2)(B)(ii)(III)	10	22.3

Any reference to the jurisdictional thresholds and related thresholds and limitation values in the HSR rules (16 CFR parts 801–803) and the Antitrust Improvements Act Notification and Report Form (''the HSR Form'') and its Instructions will also be adjusted, where indicated by the term ''(as adjusted)'', as follows:

Original threshold	Adjusted threshold
$10 million.	$22.3 million.
$50 million.	$111.4 million.
$100 million.	$222.7 million.
$110 million.	$245 million.
$200 million.	$445.5 million.
$500 million.	$1.1137 billion.
$1 billion.	$2.2274 billion.

(2) The Filing Fee Thresholds

Section 605 of Public Law 101–162 (15 U.S.C. 18a note) requires the Federal Trade Commission to assess and collect filing fees from persons acquiring voting securities or assets under the Act. The current filing fee thresholds are set forth in section 605. Division GG of the 2023 Consolidated Appropriations Act, Public Law 117–328, 136 Stat. 4459, requires the Federal Trade Commission to revise these filing fee thresholds. The new filing fee thresholds, which take effect 30 days after publication in the **Federal Register**, are as follows:

Filing fee	Size of transaction as determined under section 7A(a)(2) of the Act
$30,000	less than $161.5 million.
$100,000	not less than $161.5 million but less than $500 million.
$250,000	not less than $500 million but less than $1 billion.
$400,000	not less than $1 billion but less than $2 billion.
$800,000	not less than $2 billion but less than $5 billion.
$2.25 million	$5 billion or more.

By direction of the Commission.

April J. Tabor,

Secretary.

[FR Doc. 2023–01533 Filed 1–25–23; 8:45 am]

BILLING CODE 6750–01–P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0310; Docket No. 2022–0001; Sequence No. 17]

Submission for OMB Review; Nondiscrimination in Federal Financial Assistance Programs, GSA Form 3702

AGENCY: Office of Civil Rights, General Services Administration (GSA).

ACTION: Notice of request for comments regarding an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request to review and approve an existing information collection requirement regarding OMB Control No: 3090–0310; Nondiscrimination in Federal Financial Assistance Programs, GSA 3702. This information is needed to facilitate nondiscrimination in GSA's Federal Financial Assistance Programs, consistent with Federal civil rights laws and regulations that apply to recipients of Federal financial assistance.

DATES: Submit comments on or before: February 27, 2023.

ADDRESSES: Written comments and recommendations for this information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments''; or by using the search function.

FOR FURTHER INFORMATION CONTACT: Stephanie Stoltzfus Treier, Deputy Associate Administrator, Office of Civil Rights, at telephone 202–501–0767 or via email to *civilrights@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

GSA has mission responsibilities related to monitoring and enforcing compliance with Federal civil rights laws and regulations that apply to Federal financial assistance programs administered by GSA. Specifically, those laws provide that no person on the ground of race, color, national origin, disability, sex or age shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program in connection with which Federal financial assistance is extended under laws administered in whole, or in part, by GSA.

These mission responsibilities generate the requirement to request and obtain certain data from recipients of Federal surplus property for the purpose of determining compliance, such as the number of individuals that speak non-English languages encountered by the recipient's program(s) and how the recipient is addressing meaningful access for individuals that are Limited English Proficient; whether the recipients provide disability access in compliance with applicable laws and standards; whether there has been complaints or lawsuits filed against the recipient based on prohibited discrimination; whether there has been any findings of discrimination; and whether the recipient's facilities are accessible to qualified individuals with disabilities.

B. Annual Reporting Burden

Respondents: 1,200.
Responses per Respondent: 1.
Total Responses: 1,200.
Hours per Response: 2.
Total Burden Hours: 2,400.

C. Public Comments

A 60-day notice was published in the **Federal Register** at 87 FR 70818 on November 21, 2022. No comments were received.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the GSA Regulatory Secretariat Division by calling 202–501–4755 or emailing *GSARegSec@gsa.gov.* Please cite OMB Control No. 3090–0310, Nondiscrimination in Federal Financial Assistance Programs, GSA 3702, in all correspondence.

Beth Anne Killoran,

Deputy Chief Information Officer.

[FR Doc. 2023–01550 Filed 1–25–23; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2023–N–0155]

Agency Information Collection Activities; Proposed Collection; Comment Request; Quantitative Research on Front of Package Labeling on Packaged Foods

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing an opportunity for public comment on a proposed collection of information. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information and to allow 60 days for public comment in response to the notice. This notice invites comments on an information collection associated with a study entitled ''Quantitative Research on Front of Package Labeling on Packaged Foods.''

DATES: Either electronic or written comments on the collection of information must be submitted by March 27, 2023.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of March 27, 2023. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2023–N–0155 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; Quantitative Research on Front of Package Labeling on Packaged Foods.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' We will review this copy, including the claimed confidential information, in our consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10 a.m.–12 p.m., 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Quantitative Research on Front of Package Labeling on Packaged Foods

OMB Control Number 0910–NEW

The United States continues to face an epidemic of diet-related chronic diseases, many of which are experienced disproportionately by racial and ethnic minority groups, those with lower socioeconomic status, and those living in rural areas.[1] To help address this problem, FDA has continued to prioritize its nutrition activities [2] to help empower consumers with nutrition information to make healthier choices more easily and encourage industry innovation by providing flexibility to facilitate the production of healthier foods. FDA is focused on: (1) creating a healthier food supply for all; (2) establishing a healthy start to set the foundation for a long, healthy life; and (3) empowering consumers through informative labeling and tailored education.[3]

FDA is exploring the development of a front of package system to help consumers interpret the nutrient information on food products. Front of Package (FOP) labeling is intended to complement the Nutrition Facts label by giving consumers a simple aid to provide additional context for making healthy food selections. As part of our food-labeling efforts, we are exploring the establishment of a standardized, science-based FOP scheme that helps consumers, particularly those with lower nutrition literacy, quickly and easily identify foods that are part of a healthy eating pattern.

The increased attention in recent years to FOP, and the experiences of countries that have adopted FOP labeling suggests that FOP labeling may aid nutrition comprehension and the ability to make healthier choices, especially for those with lower nutrition literacy. FOP schemes adopted in countries throughout the world include both mandatory and voluntary labeling schemes and include non-interpretative, interpretative, nutrient specific, and summary schemes.

In 2022, FDA conducted a review of the literature on FOP nutrition-related labels and conducted a set of focus groups to test FOP concepts and draft FOP schemes (see Docket No. FDA–2023–N–0155 for the literature review). These focus group results provided insights into the varying ways that consumers interpret FOP nutrition information. As part of our efforts to promote public health, we intend to conduct an experimental study, informed by results of the focus group testing, to further explore consumer responses to various FOP schemes. In the experimental study, we will test a smaller subset of FOP schemes from the

[1] *https://www.cdc.gov/obesity/index.html.*

[2] *https://www.fda.gov/food/food-labeling-nutrition/fdas-nutrition-initiatives.*

[3] *https://www.whitehouse.gov/wp-content/uploads/2022/09/White-House-National-Strategy-on-Hunger-Nutrition-and-Health-FINAL.pdf.*

focus group testing, with additional variations informed by, among other things, focus group results (see *https://www.reginfo.gov/public/do/PRAViewIC?ref_nbr=202008-0910-021&icID=253321* for information about FDA's front-of-pack focus groups, including graphic FOP schemes tested). The study will be a controlled, randomized experiment that will use a 15-minute web-based questionnaire to collect information from 3,000 U.S. adult members of an online consumer panel maintained by a contractor. The sample will be balanced to reflect the U.S. Census on gender, education, age, and ethnicity/race. A measure of nutrition literacy will also be used to balance the sample to ensure a variety of literacy levels for each condition.

Conditions for the study will be: (1) a set of draft FOP schemes, including ''no-scheme'' controls; (2) three types of mock food products (*i.e.,* a breakfast cereal, a frozen meal, and a canned soup); and (3) a ''no-information'' condition where no explanation of the FOP scheme is provided. Each participant will be randomly assigned to a condition, which will include viewing a label image and responding to various measures of the label's effectiveness. Some assignments may include making a choice between two label images. Product perceptions (*e.g.,* healthfulness and contribution to a healthy diet), label perceptions (*e.g.,* believability, trustworthiness, and effects perceptions), and purchase/choice questions will constitute the measures of response in the experiment. The instrument will also collect information from participants about their history of purchasing or consuming similar products, nutrition knowledge, dietary interests, motivation regarding label use, health status, and demographic characteristics.

The studies are part of our continuing effort to help enable consumers to make informed dietary choices and construct healthful diets. We intend to use the results to inform our continued exploration of an FOP labeling scheme. We will not use the results to develop population estimates.

Description of Respondents: Respondents to this collection of information include members of the general public.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Experiment Pretest 1	180	1	180	0.25 (15 minutes) ..	45
Experiment Pretest 2	25	1	25	0.25 (15 minutes) ..	6
Experiment	3,000	1	3,000	0.25 (15 minutes) ..	750
Total					801

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: January 23, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–01551 Filed 1–25–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Statement of Organization, Functions, and Delegations of Authority

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA), Office of Operations (OO), Office of Talent Solutions (OTS) has modified its structure, and the Office of FDA Commissioned Corps (OFCC) was established. These new organizational structures were approved by the Deputy Secretary of Health and Human Services on September, 26, 2022, and effective on November, 2, 2022.

FOR FURTHER INFORMATION CONTACT: Tiffany Branch, Associate Director for Management, Office of Enterprise Management Services, Office of Operations, Food and Drug Administration, 3 White Flint North, 11601 Landsdown Street, North Bethesda, MD 20852, 240–402–3156.

SUPPLEMENTARY INFORMATION:

I. Introduction

Part D, Chapter D–B, (Food and Drug Administration), the Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services (35 FR 3685, February 25, 1970, 60 FR 56606, November 9, 1995, 64 FR 36361, July 6, 1999, 72 FR 50112, August 30, 2007, 74 FR 41713, August 18, 2009, 76 FR 45270, July 28, 2011, and 84 FR 22854, May 20, 2019) is amended to reflect the reorganization of the OO, OTS and establishment of OO, OFCC.

This reorganization established the OO, OFCC. In the OTS immediate office realigned the Commissioned Corps Staff (CCS) functions and resources to OO, OFCC; established the Business Operations Staff; retitled the Policy and Accountability Staff to Policy, Programs, and Accountability Staff; and abolished the CCS.

In the Division of Talent Services, I (DTS I) retitled the division to Division of Talent Solutions I (DTS I); retitled the CDER Branch 1 to Recruitment and Staffing Branch 1; retitled the CDER Branch 2 to Recruitment and Staffing Branch 2; retitled the CDER Branch 3 to Recruitment and Staffing Branch 3 (RSB3); established the Recruitment and Staffing Branch 4; and established the Special Pay and Hiring Branch.

In the Division of Talent Services II (DTS II) retitled the division to Division of Talent Solutions II (DTS II); retitled the CFSAN and CVM Branch to Recruitment and Staffing Branch 5; retitled OC and NCTR Branch to Recruitment and Staffing Branch 6; retitled the OO Branch to Recruitment and Staffing Branch 7; established the Classification Branch 1; and established the Classification Branch 2.

In the Division of Talent Services III (DTS III) retitled the division to Division of Talent Solutions III (DTS III); realigned the CBER Branch functions and resources to DTS I/RSB3; realigned the CDRH Branch functions and resources to DTS II and retitled as Recruitment and Staffing Branch 8; realigned the CTP Branch functions and resources to DTS II and retitled as Recruitment and Staffing Branch 9; established the OTS/DTS III/Data Quality Branch 2; established the Data

Quality Branch 3; and established Data Quality Branch 4.

In the Division of Talent Services IV (DTS IV) realigned the ORA Branch 1 functions to DTS III and retitled as the Recruitment and Staffing Branch 10; realigned the ORA Branch 2 functions to DTS III and retitled as the Recruitment and Staffing Branch 11; and abolished DTS IV.

In the Division of Talent Sourcing and Staffing (DTSS) realigned the Corporate Recruitment and Title 38 Branch functions and resources to the OTS Immediate Office Executive Resources Staff and retitled as the Scientific Programs and Executive Resources Staff; realigned the Scientific Staffing and Outreach Branch functions and resources to the OTS Immediate Office Scientific Talent Recruitment Staff and retitled as the Science, Technology, Engineering, and Mathematics Outreach Staff; realigned the Customer Care and Data Quality Branch functions and resources to DTS III and retitled as the Data Quality Branch 1; and abolished DTSS.

Under Part D, FDA, OO, OTS has been restructured as follows:

DCNJ. ORGANIZATION. The Office of Talent Solutions is headed by the FDA Chief Talent Officer and includes the following organizational units:

Business Operations Staff
Policy, Programs, and Accountability Staff
Scientific Programs and Executive Resources Staff
Science, Technology, Engineering, and Mathematics Outreach Staff
Division of Talent Solutions I
Recruitment and Staffing Branch 1
Recruitment and Staffing Branch 2
Recruitment and Staffing Branch 3
Recruitment and Staffing Branch 4
Special Hiring and Pay Branch
Division of Talent Solutions II
Recruitment and Staffing Branch 5
Recruitment and Staffing Branch 6
Recruitment and Staffing Branch 7
Recruitment and Staffing Branch 8
Recruitment and Staffing Branch 9
Classification Branch 1
Classification Branch 2
Division of Talent Solutions III
Recruitment and Staffing Branch 10
Recruitment and Staffing Branch 11
Delegated Examining Branch
Data Quality Branch 1
Data Quality Branch 2
Data Quality Branch 3
Data Quality Branch 4

Under Part D, FDA, OO has been restructured as follows:

DCNK. ORGANIZATION. The Office of FDA Commissioned Corps (OFCC) is headed by the Director of FDA Commissioned Corps.

II. Delegations of Authority

Pending further delegation, directives, or orders by the Commissioner of Food and Drugs, all delegations and redelegations of authority made to officials and employees of affected organizational components will continue in them or their successors pending further redelegations, provided they are consistent with this reorganization.

III. Electronic Access

This reorganization is reflected in FDA's Staff Manual Guide (SMG). Persons interested in seeing the complete SMG can find it on FDA's website at: *http://www.fda.gov/AboutFDA/ReportsManualsForms/StaffManualGuides/default.htm*

(Authority: 44 U.S.C. 3101.)

Xavier Becerra,

Secretary of Health and Human Services.

[FR Doc. 2023–01567 Filed 1–25–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Statement of Organization, Functions, and Delegations of Authority

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA), Office of Operations (OO), Office of Enterprise Management Services (OEMS) has modified its structure. This new organizational structure was approved by the Deputy Secretary of Health and Human Services on September 26, 2022, and effective on September 26, 2022.

FOR FURTHER INFORMATION CONTACT: Tiffany Branch, Associate Director for Management, Office of Enterprise Management Services, Office of Operations, Food and Drug Administration, 3 White Flint North, 11601 Landsdown Street, North Rockville, MD 20852, 240–402–3156.

SUPPLEMENTARY INFORMATION:

I. Introduction

Part D, Chapter D–B, (Food and Drug Administration), the Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services (35 FR 3685, February 25, 1970, 60 FR 56606, November 9, 1995, 64 FR 36361, July 6, 1999, 72 FR 50112, August 30, 2007, 74 FR 41713, August 18, 2009, 76 FR 45270, July 28, 2011, and 84 FR 22854, May 20, 2019) is amended to reflect reorganization of OEMS.

This reorganization realigned the FDA History Office function from the Office of the Commissioner (OC), Office of External Affairs (OEA) to OO, OEMS and revised the OEA and OEMS functional statements to this function realignment.

The Food and Drug Administration, Office of Operations, Office of Enterprise Management Services has been restructured as follows:

DCNA. ORGANIZATION. OEMS is headed by the Director of Enterprise Management Services and includes the following organizational units:

Division of Compliance and Conflict Prevention
Division of Human Capital
Division of Information Governance
FDA History Office
Division of Resources Management
Division of Vendor Management

II. Delegations of Authority

Pending further delegation, directives, or orders by the Commissioner of Food and Drugs, all delegations and redelegations of authority made to officials and employees of affected organizational components will continue in them or their successors pending further redelegations, provided they are consistent with this reorganization.

III. Electronic Access

This reorganization is reflected in FDA's Staff Manual Guide (SMG). Persons interested in seeing the complete SMG can find it on FDA's website at: *https://www.fda.gov/AboutFDA/ReportsManualsForms/StaffManualGuides/default.htm.*

(Authority: 44 U.S.C. 3101).

Xavier Becerra,

Secretary of Health and Human Services.

[FR Doc. 2023–01566 Filed 1–25–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2022–N–2174]

Oncologic Drugs Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; establishment of a public docket; request for comments.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming public advisory committee meeting of the Oncologic Drugs Advisory Committee. The general function of the committee is to provide advice and recommendations to FDA on regulatory issues. The meeting will be open to the public. FDA is establishing a docket for public comment on this document.

DATES: The meeting will be held virtually on March 9, 2023, from 12 p.m. to 5 p.m. Eastern Time.

ADDRESSES: Please note that due to the impact of the COVID–19 pandemic, all meeting participants will be joining this advisory committee meeting via an online teleconferencing platform. Answers to commonly asked questions about FDA advisory committee meetings may be accessed at: *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm408555.htm.*

FDA is establishing a docket for public comment on this meeting. The docket number is FDA–2022–N–2174. Please note that late, untimely filed comments will not be considered. The docket will close on March 8, 2023. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of March 8, 2023. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Comments received on or before February 24, 2023, will be provided to the committee. Comments received after that date will be taken into consideration by FDA. In the event that the meeting is cancelled, FDA will continue to evaluate any relevant applications or information, and consider any comments submitted to the docket, as appropriate.

You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2022–N–2174for ''Oncologic Drugs Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' FDA will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify the information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Yvette Waples, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993–0002, 240–402–5343, email: *ODAC@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check FDA's website at *https://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before the meeting.

SUPPLEMENTARY INFORMATION:

Agenda: The meeting presentations will be heard, viewed, captioned, and recorded through an online teleconferencing platform. The committee will discuss supplemental biologics license application (BLA) 761121/S–008, for POLIVY (polatuzumab vedotin-piiq) for injection, submitted by Genentech, Inc. The proposed indication (use) for this product is in combination with a rituximab product, cyclophosphamide, doxorubicin, and prednisone for the treatment of adult patients with previously untreated diffuse large B-cell lymphoma (DLBCL). This product was approved under 21 CFR 601.41 (subpart E, accelerated approval regulations) for use in combination with bendamustine and a rituximab product for the

treatment of adult patients with relapsed or refractory DLBCL, not otherwise specified, after at least two prior therapies. Confirmatory studies are post-marketing studies to verify and describe the clinical benefit of a product after it receives accelerated approval. The new proposed indication is based on the confirmatory study, POLARIX (Study GO39942), conducted to fulfill post-marketing requirement 3630–1 detailed in the June 10, 2019, approval letter, available at *https://www.accessdata.fda.gov/drugsatfda_docs/appletter/2019/761121Orig1s000ltr.pdf.* Based on the results of the POLARIX study, the committee will discuss the benefit-risk profile of POLIVY in patients with previously untreated DLBCL.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its website prior to the meeting, the background material will be made publicly available on FDA's website at the time of the advisory committee meeting. Background material and the link to the online teleconference meeting room will be available at *https://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link. The meeting will include slide presentations with audio components to allow the presentation of materials in a manner that most closely resembles an in-person advisory committee meeting.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. All electronic and written submissions submitted to the Docket (see **ADDRESSES**) on or before February 24, 2023, will be provided to the committee. Oral presentations from the public will be scheduled between approximately 3:15 p.m. to 4:15 p.m. Eastern Time. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before February 14, 2023. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by February 15, 2023.

For press inquiries, please contact the Office of Media Affairs at *fdaoma@fda.hhs.gov* or 301–796–4540.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with disabilities. If you require accommodations due to a disability, please contact Yvette Waples (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our website at *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: January 23, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–01553 Filed 1–25–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; RFA DK22–003 Promoting Organ and Tissue Donation Among Health Disparity Populations (R01—Clinical Trial Optional).

Date: March 9, 2023.

Time: 11:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute of Diabetes and Digestive and Kidney Diseases, Democracy II, 6707 Democracy Blvd. Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Ann A. Jerkins, Ph.D., Scientific Review Officer, National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health, Bethesda, MD 20892, 301–594–2242, *jerkinsa@niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: January 20, 2023.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–01541 Filed 1–25–23; 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 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: Population Sciences and Epidemiology Integrated Review Group; Analytics and Statistics for Population Research Panel B Study Section.

Date: February 22–23, 2023.

Time: 10:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Maria De Jesus Diaz Perez, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1000G, Bethesda, MD 20892, (301) 496–4227, *diazperezm2@csr.nih.gov.*

Name of Committee: Cell Biology Integrated Review Group; Cell Structure and Function 1 Study Section.

Date: February 23–24, 2023.

Time: 9:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Monaco, 700 F Street NW, Washington, DC 20001.

Contact Person: Jessica Smith, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301–402–3717, *jessica.smith6@nih.gov.*

Name of Committee: Infectious Diseases and Immunology B Integrated Review Group; Hypersensitivity, Autoimmune, and Immune-mediated Diseases Study Section.

Date: February 23–24, 2023.

Time: 9:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Xinrui Li, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–2084, *xinrui.li@nih.gov.*

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group; Adult Psychopathology and Disorders of Aging Study Section.

Date: February 23–24, 2023.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Benjamin G. Shapero, Ph.D. Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3182, MSC 7848 Bethesda, MD 20892, (301) 402–4786, *shaperobg@mail.nih.gov.*

Name of Committee: Digestive, Kidney and Urological Systems Integrated Review Group; Hepatobiliary Pathophysiology Study Section.

Date: February 23–24, 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: Jianxin Hu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2156 Bethesda, MD 20892, 301–827–4417, *jianxinh@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel Fellowships; Biophysical, Physiological, Pharmacological and Bioengineering Neuroscience.

Date: February 23–24, 2023.

Time: 9:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jennifer Kielczewski, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 435–1042, *jennifer.kielczewski@nih.gov.*

Name of Committee: Risk, Prevention and Health Behavior Integrated Review Group; Interventions to Prevent and Treat Addictions Study Section.

Date: February 23–24, 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: Sarah Vidal, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 710Q, Bethesda, MD 20892, (301) 480–5359, *sarah.vidal@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Mechanisms of Cancer Therapeutics C.

Date: February 23–24, 2023.

Time: 9:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Gloria Huei-Ting Su, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301–496–0465, *gloria.su@nih.gov.*

Name of Committee: Surgical Sciences, Biomedical Imaging and Bioengineering Integrated Review Group; Imaging Guided Interventions and Surgery Study Section.

Date: February 23–24, 2023.

Time: 9:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Ella Fung Jones, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 496–0777, *ella.jones@nih.gov.*

Name of Committee: Risk, Prevention and Health Behavior Integrated Review Group; Addiction Risks and Mechanisms Study Section.

Date: February 23–24, 2023.

Time: 9:00 a.m. to 7:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Darcy Hotel, 1515 Rhode Island Avenue, Washington, DC 20005.

Contact Person: Kristen Prentice, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3112, MSC 7808, Bethesda, MD 20892, (301) 496–0726, *prenticekj@mail.nih.gov.*

Name of Committee: Vascular and Hematology Integrated Review Group; Basic Biology of Blood, Heart and Vasculature Study Section.

Date: February 23–24, 2023.

Time: 9:00 a.m. to 9:00 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: Aisha Lanette Walker, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–3527, *aisha.walker@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 20, 2023.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–01542 Filed 1–25–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; High Impact, Interdisciplinary Science in NIDDK Research Areas (RC2).

Date: February 23, 2023.

Time: 10:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute of Diabetes and Digestive and Kidney Diseases, Democracy II, 6707 Democracy Blvd., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Cheryl Nordstrom, Ph.D., Scientific Review Officer, NIDDK/Scientific Review Branch, National Institutes of Health, 6707 Democracy Blvd., Room 7013, Bethesda, MD 20892, 301–402–6711, *cheryl.nordstrom@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology

and Hematology Research, National Institutes of Health, HHS)

Dated: January 20, 2023.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–01540 Filed 1–25–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Gene-Environment Interplay.

Date: February 24, 2023.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Nijaguna Prasad, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute on Aging, 7201 Wisconsin Avenue, Gateway Bldg., Suite 2W200, Bethesda, MD 20892, (301) 496–9667, *prasadnb@nia.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: January 20, 2023.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–01539 Filed 1–25–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Dementia in LB Diseases.

Date: February 23, 2023.

Time: 11:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Sandhya Sanghi, Ph.D., Scientific Review Officer, National Institute on Aging, National Institutes of Health, 7201 Wisconsin Avenue, Bethesda, MD 20892, (301) 496–2879, *sandhya.sanghi@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: January 20, 2023.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–01537 Filed 1–25–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Geroscience Course.

Date: March 2, 2023.

Time: 11:30 a.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Bita Nakhai, Ph.D., Chief, Basic and Translational Sciences Section (BTSS), Scientific Review Officer, National Institute on Aging, National Institutes of Health, 7201 Wisconsin Avenue, Room 2C212, Bethesda, MD 20892, 301–402–7701, *nakhaib@nia.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: January 20, 2023.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–01538 Filed 1–25–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2022–0705]

Certificate of Alternative Compliance for SHAVER O.N. 1257204, HULL 129

AGENCY: Coast Guard, DHS.

ACTION: Notification of issuance of a certificate of alternative compliance.

SUMMARY: The Coast Guard announces that the Chief, Prevention Division, Thirteenth Coast Guard District has issued a certificate of alternative compliance from the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), for the SHAVER, O.N. 1257204, HULL 129. We are issuing this notice because its publication is required by statute. Due to the construction and placement of the mooring and anchor winches and fittings, placement of the sidelights in this area would be a potential hazard to the crew during vessel operations and may subject them to potential damage during mooring. The SHAVER, O.N. 1257204, HULL 129, cannot fully comply with the light, shape, or sound signal provisions of the 72 COLREGS without interfering with the vessel's design and construction. This

notification of issuance of a certificate of alternative compliance promotes the Coast Guard's marine safety mission.

DATES: The Certificate of Alternative Compliance was issued on December 20, 2022.

FOR FURTHER INFORMATION CONTACT: For information or questions about this notice call or email Ms. Jill L. Lazo, Thirteenth District, U.S. Coast Guard; telephone 206–220–7232, email *Jill.L.Lazo@uscg.mil.*

SUPPLEMENTARY INFORMATION: The United States is signatory to the International Maritime Organization's International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), as amended. The special construction or purpose of some vessels makes them unable to comply with the light, shape, or sound signal provisions of the 72 COLREGS. Under statutory law, however, specified 72 COLREGS provisions are not applicable to a vessel of special construction or purpose if the Coast Guard determines that the vessel cannot comply fully with those requirements without interfering with the special function of the vessel.[1]

The owner, builder, operator, or agent of a special construction or purpose vessel may apply to the Coast Guard District Office in which the vessel is being built or operated for a determination that compliance with alternative requirements is justified,[2] and the Chief of the Prevention Division would then issue the applicant a certificate of alternative compliance (COAC) if he or she determines that the vessel cannot comply fully with 72 COLREGS light, shape, and sound signal provisions without interference with the vessel's special function.[3] If the Coast Guard issues a COAC, it must publish notice of this action in the **Federal Register**.[4]

The Chief, Prevention Division, of the Thirteenth Coast Guard District, U.S. Coast Guard, certifies that the SHAVER, O.N. 1257204, HULL 129, is a towing vessel of special construction or purpose, and that, with respect to the position of the sidelights, stern and towing lights, it is not possible to comply fully with the requirements of the provisions enumerated in the 72 COLREGS, without interfering with the normal operation, construction, or design of the vessel. The Chief, Prevention Division further finds and certifies that the sidelights, are in the closest possible compliance with the applicable provisions of the 72 COLREGS.[5]

This notice is issued under authority of 33 U.S.C. 1605(c) and 33 CFR 81.18.

Dated: January 11, 2023.

P.C. Burkett,

Captain, U.S. Coast Guard, Chief, Prevention Division, Thirteenth Coast Guard District.

[FR Doc. 2023–01499 Filed 1–25–23; 8:45 am]

BILLING CODE 9110–04–P

[1] 33 U.S.C. 1605.

[2] 33 CFR 81.5.

[3] 33 CFR 81.9.

[4] 33 U.S.C. 1605(c) and 33 CFR 81.18.

[5] 33 U.S.C. 1605(a); 33 CFR 81.9.

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2023–0064]

Area Maritime Security Advisory Committee Duluth Vacancies

AGENCY: Coast Guard, DHS.

ACTION: Solicitation for membership.

SUMMARY: This notice requests individuals interested in serving on the Western Lake Superior Area Maritime Security Committee to submit their applications for membership to the Captain of the Port Duluth. The Committee assists the Captain of the Port as the Federal Maritime Security Coordinator, Duluth, in developing, reviewing, and updating the Area Maritime Security Plan for their area of responsibility.

DATES: Requests for membership should reach the Captain of the Port, Duluth, by February 27, 2023.

ADDRESSES: Applications for membership should be submitted to the Captain of the Port at the following address: Commander, Marine Safety Unit Duluth, Attn: Ben Gates, AMSC Executive Secretary, 515 West First Street, Rm 145, Duluth, MN 55802.

FOR FURTHER INFORMATION CONTACT: For questions about submitting an application, or about the AMSC in general, contact Ben Gates, AMSC Executive Secretary; phone (218) 725–3830.

SUPPLEMENTARY INFORMATION:

Authority

Section 102 of the Maritime Transportation Security Act (MTSA) of 2002 (Pub. L. 107–295) added section 70112 to Title 46 of the U.S. Code and authorized the Secretary of the Department in which the Coast Guard is operating to establish Area Maritime Security Advisory Committees (AMSCs) for any port area of the United States. (See 46 U.S.C. 70112; 33 CFR 1.05–1, 6.01; Department of Homeland Security Delegation No. 00170.1).

The MTSA includes a provision exempting these AMSCs from the Federal Advisory Committee Act (FACA), Public Law 92–436, 86 Stat. 470 (5 U.S.C. App.2). The AMSCs shall assist the Federal Maritime Security Coordinator in the development, review, update, and exercising of the Area Maritime Security Plan for their area of responsibility. Such matters may include, but are not limited to, the following:

(1) Identifying critical port infrastructure and operations; Identifying risks (threats, vulnerabilities, and consequences);

(2) Determining mitigation strategies and implementation methods;

(3) Developing strategies to facilitate the recovery of the Maritime Transportation System after a Transportation Security Incident;

(4) Developing and describing the process to continually evaluate overall port security by considering consequences and vulnerabilities, how they may change over time, and what additional mitigation strategies can be applied; and,

(5) Providing advice to and assisting the Federal Maritime Security Coordinator in developing and maintaining the Area Maritime Security Plan.

AMSC Membership

Members of the AMSC should have at least five years of experience related to maritime or port security operations. The Western Lake Superior AMSC has 15 members. We are seeking to fill 6 vacancies with this solicitation.

Applicants may be required to pass an appropriate security background check prior to appointment to the committee. Applicants must register with and remain active as a Coast Guard Homeport user if appointed. Member's term of office will be for five years; however, a member is eligible to serve additional terms of office. Members will not receive any salary or other compensation for their service on an AMSC. In accordance with 33 CFR 103, members may be selected from Federal, Territorial, or Tribal governments; State government and political subdivisions of the State; local public safety, crisis management, and emergency response agencies; law enforcement and security organizations; maritime industry, including labor; other port stakeholders having a special competence in maritime security; and port stakeholders affected by security practices and policies.

The Department of Homeland Security does not discriminate in selection of committee members on the basis of race, color, religion, sex, national origin, political affiliation, sexual orientation, gender identity, marital status, disability, and genetic information, age, membership in an employee organization, or any other non-merit factor. The Department of Homeland Security strives to achieve a widely diverse candidate pool for all of its recruitment actions.

Request for Applications

Those seeking membership are not required to submit formal applications to the local Captain of the Port. Because we do have an obligation to ensure that a specific number of members have the prerequisite maritime security experience, we encourage the submission of resumes highlighting experience in the maritime and security industries.

Dated: January 23, 2023.

Jarrod M. DeWitz,

Commander, U.S. Coast Guard, Captain of the Port & Federal Maritime Security Coordinator, Duluth.

[FR Doc. 2023–01576 Filed 1–25–23; 8:45 am]

BILLING CODE 9110–15–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2022–0019; OMB No. 1660–NW151]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Survey Following the National Test of the Wireless Emergency Alert (WEA) System

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: 30-Day notice of new collection and request for comments.

SUMMARY: The Federal Emergency Management Agency (FEMA) will submit the information collection abstracted below to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. The submission seeks comments concerning a survey following the upcoming national test of the Wireless Emergency Alert (WEA) system.

DATES: Comments must be submitted on or before February 27, 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.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Director, Information Management Division, 500 C Street SW, Washington, DC 20472, email address *FEMA-Information-Collections-Management@fema.dhs.gov* or Ward D. Hagood, IPAWS DS2 T&E Manager, FEMA HQ/PNP–NCP–CCD–IPAWS, phone: (202) 212–1478, email: *ward.hagood@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: Public Law 114–143, the *Integrated Public Alert and Warning System Modernization Act of 2015,* and Presidential Executive Order 13407, *Public Alert and Warning System,* require FEMA to implement the public alert and warning system to disseminate timely and effective warnings to people in situations of war, terrorist attack, natural disaster, or other hazards to public safety and wellbeing, and conduct tests of the public alert and warning system at least once every three years. The Act also requires public education efforts and a general market awareness campaign to ensure understanding of the functions of the public alert and warning system. The Integrated Public Alert and Warning System (IPAWS) is the Department of Homeland Security's (DHS) response to the Executive Order. The Stafford Act (U.S.C. Title 42, chapter 68, subchapter II) requires that FEMA make IPAWS available to Federal, state, local, tribal, and territorial agencies for the purpose of providing warning to governmental authorities and the civilian population in areas endangered by disasters. FEMA is planning a national test of a key component of IPAWS, the Wireless Emergency Alert (WEA) system, to satisfy the testing and public education requirements of the IPAWS Modernization Act of 2015 (Pub. L. 114–143). The WEA system broadcasts alerts to cell phones configured to receive such alerts (which, at this point, is most phones sold in the United States). The WEA national test will be announced in advance by FEMA and widely publicized. The test will help FEMA assess WEA's geographic reach, along with additional key parameters outlined in the IPAWS Modernization Act of 2015. This will help FEMA and other WEA stakeholders, such as the Federal Communications Commission (FCC) and Congressional committees, enhance and expand WEA, and thus further improve emergency alerting capabilities, leading to a better prepared and more resilient nation. FEMA will implement a survey to capture key technical performance factors of WEA, such as geographic coverage and carrier-related issues, as well as non-technical aspects essential to WEA's role in national alerting, including alerting effectiveness in reaching diverse populations, including traditionally underserved populations. The survey will also assess public awareness of the WEA system.

This proposed information collection previously published in the **Federal Register** on July 7, 2022, at 87 FR 40544 with a 60 day public comment period. FEMA received six public comments. Comments 1 (FEMA–2022–0019–0002), 2 (FEMA–2022–0019–0003), and 4 (FEMA–2022–0019–0005), which provided feedback on technical aspects of the WEA system as opposed to feedback on this specific data collection, were shared with IPAWS. Per comment 3 (FEMA–2022–0019–0004), the 30-Day FRN will also include the draft survey, which will not require advertising since participants will be recruited through established survey panels. Comment 5 (FEMA–2022–0019–0006) referenced a survey that was not affiliated with this data collection. FEMA responded to comment 6 (FEMA–2022–0019–0007) by providing additional detail on the issues raised.

The purpose of this notice is to notify the public that FEMA will submit the information collection abstracted below to the Office of Management and Budget for review and clearance.

Collection of Information

Title: Survey Following the National Test of the Wireless Emergency Alert (WEA) System.

Type of Information Collection: New information collection.

OMB Number: 1660–NW151.

FEMA Form: FEMA Form FF–302–FY–22–101, WEA National Test Survey.

Abstract: FEMA will field a survey following a national test of the WEA system. The survey will capture key technical performance factors, such as geographic coverage and carrier-related issues, and non-technical aspects essential to WEA's role in national alerting, including effectiveness in reaching diverse populations. FEMA will use this information to improve the performance of the WEA system and assess public awareness.

Affected Public: Individuals or households.

Estimated Number of Respondents: 82,586.

Estimated Number of Responses: 82,586.

Estimated Total Annual Burden Hours: 8,092.

Estimated Total Annual Respondent Cost: $328,617.

Estimated Respondents' Operation and Maintenance Costs: $0.

Estimated Respondents' Capital and Start-Up Costs: $0.

Estimated Total Annual Cost to the Federal Government: $2,104,395.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Millicent Brown Wilson,

Records Management Branch Chief, Office of the Chief Administrative Officer, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2023–01555 Filed 1–25–23; 8:45 am]

BILLING CODE 9111–AB–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2022–0030; OMB No. 1660–0070]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; National Fire Department Registry

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: 30-Day notice of revision and request for comments.

SUMMARY: The Federal Emergency Management Agency (FEMA) will submit the information collection abstracted below to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. The submission seeks comments concerning the use of a form to collect data for the development and continuation of the National Fire Department Registry.

DATES: Comments must be submitted on or before February 27, 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.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Director, Information Management Division, 500 C Street SW, Washington, DC 20472, email address *FEMA-Information-Collections-Management@fema.dhs.gov* or Gayle Kelch, Statistician, FEMA, United States Fire Administration, National Fire Data Center at (301) 447–1154 or *gayle.kelch@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: The Federal Fire Prevention and Control Act of 1974, Public Law 93–498, as enacted in 15 U.S.C. Chap 49, provides for the gathering and analyzing of data as deemed useful and applicable for fire departments. The U.S. Fire Administration (USFA) receives many requests from fire service organizations and the general public for information related to fire departments, including total number of departments, number of stations per department, population protected, and number of firefighters. The USFA also has a need for this information to guide programmatic decisions and produce mailing lists for USFA publications. Recommendations for the creation of the fire department census database came out of a Blue Ribbon Panel's review of the USFA. The report included a review of the structure, mission, and funding of the USFA, future policies, programmatic needs, course development and delivery, and the role of the USFA to reflect changes in the fire service. As a result of those recommendations, the USFA is working to identify all fire departments in the United States to develop a database that will include information related to demographics, capabilities, and activities of fire departments Nationwide. In the fall of 2016, the USFA renamed the census to the National Fire Department Registry. In the fall of 2001, information was collected from 16,000 fire departments. Since the first year of the collection, an additional 11,182 departments have registered for a total of 27,182 fire departments. This leaves an estimated 2,818 departments still to respond. Additionally, about 5,436 current registered departments are contacted by USFA each year and are asked to provide updates to any previously submitted information.

This proposed information collection previously published in the **Federal Register** on October 13, 2022, at 87 FR 15228 with a 60 day public comment period. No comments were received. The purpose of this notice is to notify the public that FEMA will submit the information collection abstracted below to the Office of Management and Budget for review and clearance.

Collection of Information

Title: National Fire Department Registry.

Type of Information Collection: Revision of a currently approved information collection.

OMB Number: 1660–0070.

FEMA Forms: FEMA Form FF–USFA–FY–21–100—Paper Version (formerly 070–0–0–1); FEMA Form FF–USFA–FY–21–110—Online Version (formerly the screenshots of FEMA Form 070–0–0–1).

Abstract: This collection seeks to identify fire departments in the United States to compile a database related to their demographics, capabilities, and activities. The database is used to guide programmatic decisions and provide information to the public and the fire service.

Affected Public: State, local or tribal government.

Estimated Number of Respondents: 6,375.

Estimated Number of Responses: 6,375.

Estimated Total Annual Burden Hours: 1,219.

Estimated Total Annual Respondent Cost: $9,371.

Estimated Respondents' Operation and Maintenance Costs: $0.

Estimated Respondents' Capital and Start-Up Costs: $0.

Estimated Total Annual Cost to the Federal Government: $100,058.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a)

evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Millicent Brown Wilson,

Records Management Branch Chief, Office of the Chief Administrative Officer, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2023–01554 Filed 1–25–23; 8:45 am]

BILLING CODE 9111–76–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Immigration and Customs Enforcement

[Docket No. ICEB–2022–0014]

RIN 1653–ZA34

Employment Authorization for Haitian F–1 Nonimmigrant Students Experiencing Severe Economic Hardship as a Direct Result of the Current Crisis in Haiti

AGENCY: U.S. Immigration and Customs Enforcement; Department of Homeland Security.

ACTION: Notice.

SUMMARY: This notice announces that the Secretary of Homeland Security (Secretary) is suspending certain regulatory requirements for F–1 nonimmigrant students whose country of citizenship is Haiti, regardless of country of birth (or individuals having no nationality who last habitually resided in Haiti), and who are experiencing severe economic hardship as a direct result of the current crisis in Haiti. The Secretary is taking action to provide relief to these Haitian students who are in lawful F–1 nonimmigrant student status so the students may request employment authorization on the date of publication of this notice, work an increased number of hours while school is in session, and reduce their course load while continuing to maintain their F–1 nonimmigrant student status. The U.S. Department of Homeland Security (DHS) will deem an F–1 nonimmigrant student granted employment authorization by means of this notice to be engaged in a ''full course of study'' for the duration of the employment authorization, if the nonimmigrant student satisfies the minimum course load requirement described in this notice.

DATES: This action is effective February 4, 2023, through August 3, 2024.

FOR FURTHER INFORMATION CONTACT: Sharon Snyder, Unit Chief, Policy and Response Unit, Student and Exchange Visitor Program, MS 5600, U.S. Immigration and Customs Enforcement, 500 12th Street SW, Washington, DC 20536–5600; email: *sevp@ice.dhs.gov,* telephone: (703) 603–3400. This is not a toll-free number. Program information can be found at *https://www.ice.gov/sevis/.*

SUPPLEMENTARY INFORMATION:

What action is DHS taking under this notice?

The Secretary is exercising authority under 8 CFR 214.2(f)(9) to temporarily suspend the applicability of certain requirements governing on-campus and off-campus employment for F–1 nonimmigrant students whose country of citizenship is Haiti, regardless of country of birth (or individuals having no nationality who last habitually resided in Haiti), who are present in the United States in lawful F–1 nonimmigrant student status on the date of publication of this notice, and who are experiencing severe economic hardship as a direct result of the current crisis in Haiti. DHS initially suspended certain regulatory requirements for F–1 nonimmigrant students experiencing severe economic hardship as a direct result of the January 12, 2010, earthquake in Haiti. *See* 75 FR 56120 (Sep. 15, 2010). The original notice was effective from September 15, 2010, until July 22, 2011. A subsequent notice provided for an 18-month extension from July 22, 2011, through January 22, 2013. *See* 76 FR 28997 (May 19, 2011). A third notice provided another 18-month extension from January 22, 2013, through July 22, 2014. *See* 77 FR 59942 (Oct. 1, 2012). A fourth notice provided for another 18-month extension from July 22, 2014, through January 22, 2016. *See* 79 FR 11805 (Mar. 3, 2014). A fifth notice provided for another 18-month extension from January 22, 2016, through July 22, 2017. *See* 80 FR 51579 (Aug. 25, 2015). Most recently, DHS issued a notice which applied to F–1 nonimmigrant students who met certain criteria, including having been lawfully present in the United States in F–1 nonimmigrant status on August 3, 2021, and was effective from August 3, 2021, until February 3, 2023. *See* 86 FR 41857 (Aug. 3, 2021). Effective with this publication, suspension of the employment limitations is available through August 3, 2024, for those who are in lawful F–1 nonimmigrant status on the date of publication of this notice. DHS will deem an F–1 nonimmigrant student granted employment authorization through this notice to be engaged in a ''full course of study'' for the duration of the employment authorization, if the student satisfies the minimum course load set forth in this notice.[1] *See* 8 CFR 214.2(f)(6)(i)(F).

Who is covered by this notice?

This notice applies exclusively to F–1 nonimmigrant students who, on the date of publication of this notice, meet all of the following conditions:

(1) Are a citizen of Haiti, regardless of country of birth (or an individual having no nationality who last habitually resided in Haiti);

(2) Were lawfully present in the United States in F–1 nonimmigrant status under section 101(a)(15)(F)(i) of the Immigration and Nationality Act (INA), 8 U.S.C. 1101(a)(15)(F)(i);

(3) Are currently enrolled in an academic institution that is Student and Exchange Visitor Program (SEVP)-certified for enrollment for F–1 nonimmigrant students;

(4) Are currently maintaining F–1 nonimmigrant status; and

(5) Are experiencing severe economic hardship as a direct result of the current crisis in Haiti.

This notice applies to F–1 nonimmigrant students in an approved private school in kindergarten through grade 12, public school grades 9 through 12, and undergraduate and graduate education. An F–1 nonimmigrant

[1] Because the suspension of requirements under this notice applies throughout an academic term during which the suspension is in effect, DHS considers an F–1 nonimmigrant student who engages in a reduced course load or employment (or both) after this notice is effective to be engaging in a ''full course of study,'' *see* 8 CFR 214.2(f)(6), and eligible for employment authorization, through the end of any academic term for which such student is matriculated as of August 3, 2024, provided the student satisfies the minimum course load requirements in this notice. DHS also considers students who engage in online coursework pursuant to U.S. Immigration and Customs Enforcement (ICE) coronavirus disease 2019 (COVID–19) guidance for nonimmigrant students to be in compliance with regulations while such guidance remains in effect. *See* ICE Guidance and Frequently Asked Questions on COVID–19, Nonimmigrant Students & SEVP-Certified Schools: Frequently Asked Questions, *https://www.ice.gov/coronavirus* (last visited Nov. 30, 2022).

student covered by this notice who transfers to another SEVP-certified academic institution remains eligible for the relief provided by means of this notice.

Why is DHS taking this action?

DHS is taking action to provide relief to Haitian F–1 nonimmigrant students experiencing severe economic hardship due to the current and ongoing crisis in Haiti. Based on its review of country conditions in Haiti and input received from the U.S. Department of State (DOS), DHS is taking action to allow eligible F–1 nonimmigrant students from Haiti (or individuals having no nationality who last habitually resided in Haiti) to request employment authorization, work an increased number of hours while school is in session, and reduce their course load while continuing to maintain F–1 nonimmigrant student status.

Overview

DHS has conducted a thorough review of country conditions in Haiti. Haiti is experiencing economic, security, political, and health crises simultaneously. Fractured political dynamics and dysfunctional government entities are exacerbating a violent increase in gang conflict. At the same time, Haiti is confronting a humanitarian crisis, with many citizens having limited access to safety, healthcare, food, water, and economic opportunity. These circumstances continue to make return to Haiti dangerous for Haitian nationals living in the United States.

Political Situation

The Haitian Parliament was dissolved in January 2020 as the mandates of two thirds of Senate members and all Chamber of Deputies members expired, and no new elections were held.[2] On July 7, 2021, President Jovenel Moïse was assassinated in his private residence in Port-au-Prince. Subsequently, Ariel Henry, whom Moïse had appointed prime minister days before the assassination, was installed as head of a new government.

Since then, PM Henry and opposition groups have engaged in intermittent negotiations about a political path towards elections. On December 21, representatives of civil society, the private sector, and political groups began signing a revised political agreement known as the December Accord, which was supported by PM Henry. Some opposition members, including many members of the Citizen Conference for a Haitian Solution to the Crisis, also known as the Montana Group, had not yet agreed to the accord as of January 4.

The Haitian government has long been accused of corruption and ineptitude. Politicians and the business elite in Haiti have historically relied on gangs to obtain and exert power, but the gangs have grown more autonomous in recent years.[3] An International Crisis Group report stated ''collusion between state security forces and illegal armed groups has flourished in the absence of political will to hold corrupt officers accountable and because of efforts of those in power to deploy the police (as well as gangs) to serve their personal interests.''[4]

Security Situation

Since President Moïse's assassination, Haiti has experienced a sharp deterioration in an already fragile security situation. Gang violence and kidnappings have spiked throughout the country, particularly in the capital, Port-au-Prince. The UN documented 934 killings, 684 injuries, and 680 kidnappings in Port-au-Prince from January to June 2022.[5] In one 10-day period in July, more than 200 people were killed in gang violence in Port-au-Prince; nearly half of the decedents had no gang ties.[6]

There are around 200 gangs across Haiti, 95 of which operate in metropolitan Port-au-Prince. Many of Haiti's gangs have coalesced around two main alliances: the G9 and the GPèp. A two-party gang rivalry fought on numerous fronts has superseded the old local rivalries. Gangs have decapitated opponents in public, burnt corpses in the street, set fire to houses, and used sexual violence to intimidate residents out of collaborating with their rivals.[7] Clashes between rival gangs led to particularly high levels of gang violence in April and May 2022, leading to the temporary closure of dozens of schools, medical centers, businesses, and markets, making it difficult for people to find basic products including food, water, and medicines. In May 2022, UN High Commissioner for Human Rights Michelle Bachelet described armed violence in Haiti as ''unimaginable and intolerable'' and stated that ''violence has had a severe impact on the most basic human rights of people.'' Also in May, Doctors Without Borders warned that kidnappings for ransom that target many residents of Port-au-Prince, including medical personnel, were making it increasingly difficult for the population to access healthcare. Gangs in Port-au-Prince targeted homeless and at-risk teens as participants in gang violence. In July 2022, the UN Office for the Coordination of Humanitarian Affairs (UNOCHA) estimated that more than a third of Port-au-Prince was under the control of gangs.[8]

In mid-September, gangs blocked access to the Varreux Terminal in Port-au-Prince, the main entry point for fuel in Haiti, cutting off millions of gallons of diesel and gasoline and causing a severe fuel shortage.[9] The fuel blockage paralyzed Haiti's economy.[10] Health centers and hospitals had to close, and the distribution of water was interrupted.[11] The lack of access to clean water contributed to the outbreak of cholera in early October, and complicated efforts to respond to and contain the outbreak.[12]

On October 7, 2022, the government of Haiti requested assistance from the international community to confront gangs and address the humanitarian crisis.[13] In an October 12, 2022 Press

[2] Freedom House, *Freedom in the World 2022—Haiti* (Feb. 28, 2022), *https://freedomhouse.org/country/haiti/freedom-world/2022.*

[3] Diego Da Rin, *New Gang Battle Lines Scar Haiti as Political Deadlock Persists,* International Crisis Group (July 27, 2022), *https://www.crisisgroup.org/latin-america-caribbean/haiti/new-gang-battle-lines-scar-haiti-political-deadlock-persists.*

[4] International Crisis Group, *New Gang Battle Lines Scar Haiti as Political Deadlock Persists* (July 27, 2022), *https://www.crisisgroup.org/latin-america-caribbean/haiti/new-gang-battle-lines-scar-haiti-political-deadlock-persists.*

[5] Haiti: UN sounds alarm over worsening gang violence across Port-au-Prince, UN News, July 16, 2022, *https://news.un.org/en/story/2022/07/1122662#:~:text=%E2%80%9CWe%20have%20so%20far%20documented,Soleil%20area%20of%20the%20city.%E2%80%9D.*

[6] BBC News, *Haiti Gang Violence: 209 killed in Cité Soleil in 10 days,* July 26, 2022, *https://www.bbc.com/news/world-latin-america-62292007.*

[7] *Id.*

[8] UN OCHA, *Haiti: Impact of the deteriorating security situation on humanitarian access: Background* Note (July 8, 2022), *https://reliefweb.int/report/haiti/haiti-impact-deteriorating-security-situation-humanitarian-access-background-note-8-july-2022.*

[9] PBS NewsHour, *Haiti reaches a breaking point as the economy tanks and violence soars* (Oct. 4, 2022), *https://www.pbs.org/newshour/world/haiti-reaches-a-breaking-point-as-the-economy-tanks-and-violence-soars.*

[10] Brian Ellsworth and Harold Isaac, *UN calls for 'humanitarian corridor' in Haiti as gang blockade drags on,* Reuters, Oct. 6, 2022, *https://www.reuters.com/world/americas/un-calls-humanitarian-corridor-haiti-gang-blockade-drags-2022-10-06/.*

[11] UN News, *Haiti: Fuel crisis prompts appeal for humanitarian corridor amid cholera outbreak,* Oct. 6, 2022, *https://news.un.org/en/story/2022/10/1129317.*

[12] *Id.*

[13] Reuters, Haiti's situation is dire and cannot persist, State Department says, Oct. 11, 2022, *https://www.reuters.com/world/americas/haitis-situation-is-dire-cannot-persist-state-department-says-2022-10-11/.*

Statement, U.S. Secretary of State Antony Blinken emphasized the critical nature of the humanitarian situation in Haiti, noting that the United States is committed to continuing to help Haiti address the crisis through multiple avenues.[14] On October 15, the U.S. and Canada delivered Haitian National Police-purchased armored vehicles and other law enforcement equipment to assist in re-taking the terminal. A Haitian National Police operation on November 5–6 successfully re-gained control of the fuel terminal. The relatively small size of the Haitian National Police remains concerning. Out of 14,161 officers, 13,000 officers are assigned to law enforcement activities, with the ratio of police officers to the population standing at 1.06 police officers per 1,000 inhabitants. This is well below the United Nations-suggested international ratio of 2.2 per 1,000.

Humanitarian Situation

Haiti has one of the highest levels of chronic food insecurity in the world with more than half of its total population chronically food insecure and 22 percent of children chronically malnourished, according to a September 2022 report.[15] As of October 2022, the total number of people in ''acute'' food insecurity stood at 4.7 million people, including 1.8 million people in the ''emergency'' phase on the World Food Program's (WFP) Integrated Food Security Classification Index.[16] For the first time ever, 19,000 Haitians are considered to be in the ''catastrophe'' phase (the most severe classification).[17]

The UN and the Haitian government have reported a new cholera outbreak, with the first cases detected between October 1–2, 2022.[18] As of November 15, 2022, there were 8,146 hospitalized suspected cases and 821 confirmed cases of cholera, resulting in 188 deaths.[19] The end of the two-month fuel terminal seizure allowed hospitals, water treatment plants, commercial water suppliers, and transportation networks to resume functioning, allowing for better access to cholera prevention and treatment. However, paradoxically, the availability of fuel also allowed for resumed mobility among the general population, potentially leading to increased cholera transmission. In November 2022, the UN launched a ''Flash Appeal'' requesting $145.6 million to contain the outbreak and respond to other humanitarian needs throughout Haiti.[20] In addition to the cholera outbreak, as of August 1, 2022, only 1.4 percent of Haiti's population had been fully vaccinated against COVID–19.[21] Haiti ranks among the world's bottom 10 countries in terms of COVID–19 vaccination coverage.[22]

Economic Situation

Amidst the political, security, and humanitarian crises, Haiti's economy has floundered. Haiti is among the countries with the greatest inequality in the region. The richest 20 percent of its population holds more than 64 percent of its total wealth, while the poorest 20 percent has less than 1 percent.[23] Latest estimates put the 2021 poverty rate at 52.3 percent up from 51 percent in 2020.[24] In 2021, Haiti had a GDP per capita of $1,815, the lowest in the Latin America and the Caribbean (LAC) region and less than a fifth of the LAC average of $15,092.[25] On the UN's Human Development Index,[26] Haiti ranked 170 out of 189 in 2020.[27]

As of January 3, 2023, 1,004 F–1 nonimmigrant students who are Hatian citizens are enrolled at SEVP-certified academic institutions in the United States. Given the extent of the current crisis in Haiti, affected students whose primary means of financial support comes from Haiti may need to be exempt from the normal student employment requirements to continue their studies in the United States. The current crisis has made it unfeasible for many students to safely return to Haiti for the foreseeable future. Without employment authorization, these students may lack the means to meet basic living expenses.

What is the minimum course load requirement to maintain valid F–1 nonimmigrant status under this notice?

Undergraduate F–1 nonimmigrant students who receive on-campus or off-campus employment authorization under this notice must remain registered for a minimum of six semester or quarter hours of instruction per academic term. Undergraduate F–1 nonimmigrant students enrolled in a term of different duration must register for at least one half of the credit hours normally required under a ''full course of study.'' *See* 8 CFR 214.2(f)(6)(i)(B) and (F). A graduate-level F–1 nonimmigrant student who receives on-campus or off-campus employment authorization under this notice must remain registered for a minimum of three semester or quarter hours of instruction per academic term. *See* 8 CFR 214.2(f)(5)(v). Nothing in this notice affects the applicability of other minimum course load requirements set by the academic institution.

In addition, an F–1 nonimmigrant student (either undergraduate or graduate) granted on-campus or off-campus employment authorization under this notice may count up to the equivalent of one class or three credits per session, term, semester, trimester, or quarter of online or distance education toward satisfying this minimum course load requirement, unless their course of study is in an English language study

[14] U.S. Department of State, Press Statement, Steps to Address the Humanitarian and Security Situation in Haiti, Oct. 12, 2022, *https://www.state.gov/steps-to-address-the-humanitarian-and-security-situation-in-haiti/.*

[15] WFP, *WFP Haiti Country Brief, September 2022* (Sept. 30, 2022), *https://reliefweb.int/report/haiti/wfp-haiti-country-brief-september-2022.*

[16] UN News, *'Catastrophic' hunger recorded in Haiti for first time, UN warns,* Oct. 14, 2022, *https://news.un.org/en/story/2022/10/1129537#:~:text=According%20to%20the%20latest%20IPC,in%20Catastrophe%20phase%2C%20phase%205.*

[17] *Id.*

[18] Widlore Mérancourt, Kelly Kasulis Cho, and Amanda Coletta, The Washington Post, Cholera Resurfaces in Haiti as gangs hinder access to water, hospitals, Oct. 3, 2022, *https://www.washingtonpost.com/world/2022/10/03/haiti-cholera-gang-violence-water/.*

[19] Pan American Health Organization, *Cholera Outbreak in Hispaniola, Situation Report #6,* Nov. 17, 2022, *https://www.paho.org/en/documents/cholera-outbreak-hispaniola-2022-situation-report-6.*

[20] UN Office for the Coordination of Humanitarian Affairs, *Haiti 2022 Cholera Flash Appeal (Mid Oct 2022–Mid Apr 2023),* Nov. 15, 2022, *https://reliefweb.int/report/haiti/haiti-2022-cholera-flash-appeal-mid-oct-2022-mid-apr-2023.*

[21] Congressional Research Service, *Haiti: Political Conflict and U.S. Policy Overview* (Aug. 2, 2022), *https://crsreports.congress.gov/product/pdf/IF/IF12182.*

[22] World Bank, *The World Bank approved $35 million to improve Haiti's COVID–19 response* (June 11, 2022), *https://reliefweb.int/report/haiti/world-bank-approved-35-million-improve-haitis-covid-19-response.*

[23] World Bank, *The World Bank in Haiti Overview* (last updated June 14, 2022), *https://www.worldbank.org/en/country/haiti/overview.*

[24] *Id.*

[25] *Id.*

[26] The Human Development Index (HDI) is a summary measure of average achievement in key dimensions of human development: a long and healthy life, being knowledgeable and have a decent standard of living. *See* UNDP, *Human Development Index (HDI)* (last visited Aug. 15, 2022), *https://hdr.undp.org/data-center/human-development-index#/indicies/HDI.*

[27] World Bank, *The World Bank in Haiti Overview* (last updated June 14, 2022), *https://www.worldbank.org/en/country/haiti/overview.*

program.[28] *See* 8 CFR 214.2(f)(6)(i)(G). An F–1 nonimmigrant student attending an approved private school in kindergarten through grade 12 or public school in grades 9 through 12 must maintain ''class attendance for not less than the minimum number of hours a week prescribed by the school for normal progress toward graduation,'' as required under 8 CFR 214.2(f)(6)(i)(E). Nothing in this notice affects the applicability of federal and state labor laws limiting the employment of minors.

May an eligible F–1 nonimmigrant student who already has on-campus or off-campus employment authorization benefit from the suspension of regulatory requirements under this notice?

Yes. An F–1 nonimmigrant student who is a Haitian citizen, regardless of country of birth (or an individual having no nationality who last habitually resided in Haiti), who already has on-campus or off-campus employment authorization and is otherwise eligible may benefit under this notice, which suspends certain regulatory requirements relating to the minimum course load requirement under 8 CFR 214.2(f)(6)(i) and certain employment eligibility requirements under 8 CFR 214.2(f)(9). Such an eligible F–1 nonimmigrant student may benefit without having to apply for a new Form I–766, Employment Authorization Document (EAD). To benefit from this notice, the F–1 nonimmigrant student must request that their designated school official (DSO) enter the following statement in the remarks field of the student's Student and Exchange Visitor Information System (SEVIS) record, which the student's Form I–20, Certificate of Eligibility for Nonimmigrant (F–1) Student Status, will reflect:

Approved for more than 20 hours per week of [DSO must insert ''on-campus'' or ''off-campus,'' depending upon the type of employment authorization the student already has] employment authorization and reduced course load under the Special Student Relief authorization from [DSO must insert the beginning date of the notice or the beginning date of the student's employment, whichever date is later] until [DSO must insert either the student's program end date, the current EAD expiration date (if the student is currently authorized for off-campus employment), or the end date of this notice, whichever date comes first].[29]

Must the F–1 nonimmigrant student apply for reinstatement after expiration of this special employment authorization if the student reduces his or her ''full course of study''?

No. DHS will deem an F–1 nonimmigrant student who receives and comports with the employment authorization permitted under this notice to be engaged in a ''full course of study'' [30] for the duration of the student's employment authorization, provided that a qualifying undergraduate level F–1 nonimmigrant student remains registered for a minimum of six semester or quarter hours of instruction per academic term, and a qualifying graduate level F–1 nonimmigrant student remains registered for a minimum of three semester or quarter hours of instruction per academic term. *See* 8 CFR 214.2(f)(5)(v) and (f)(6)(i)(F). Undergraduate F–1 nonimmigrant students enrolled in a term of different duration must register for at least one half of the credit hours normally required under a ''full course of study.'' *See* 8 CFR 214.2(f)(6)(i)(B) and (F). DHS will not require such students to apply for reinstatement under 8 CFR 214.2(f)(16) if they are otherwise maintaining F–1 nonimmigrant status.

Will an F–2 dependent (spouse or minor child) of an F–1 nonimmigrant student covered by this notice be eligible for employment authorization?

No. An F–2 spouse or minor child of an F–1 nonimmigrant student is not authorized to work in the United States and, therefore, may not accept employment under the F–2 nonimmigrant status, consistent with 8 CFR 214.2(f)(15)(i).

Will the suspension of the applicability of the standard student employment requirements apply to an individual who receives an initial F–1 visa and makes an initial entry into the United States after the effective date of this notice in the Federal Register?

No. The suspension of the applicability of the standard regulatory requirements only applies to certain F–1 nonimmigrant students who, on the date of publication of this notice, meet the following conditions:

(1) Are a citizen of Haiti, regardless of country of birth (or an individual having no nationality who last habitually resided in Haiti);

(2) Were lawfully present in the United States in F–1 nonimmigrant status, under section 101(a)(15)(F)(i) of the INA, 8 U.S.C. 1101(a)(15)(F)(i);

(3) Are enrolled in an academic institution that is SEVP-certified for enrollment of F–1 nonimmigrant students;

(4) Are maintaining F–1 nonimmigrant status; and

(5) Are experiencing severe economic hardship as a direct result of the current crisis in Haiti.

An F–1 nonimmigrant student who does not meet all these requirements is ineligible for the suspension of the applicability of the standard regulatory requirements (even if experiencing severe economic hardship as a direct result of the current crisis in Haiti).

Does this notice apply to a continuing F–1 nonimmigrant student who departs the United States after the effective date of this notice in the Federal Register and who needs to obtain a new F–1 visa before returning to the United States to continue an educational program?

Yes. This notice applies to such an F–1 nonimmigrant student, but only if the DSO has properly notated the student's SEVIS record, which will then appear on the student's Form I–20. The normal rules for visa issuance remain applicable to a nonimmigrant who needs to apply for a new F–1 visa to continue an educational program in the United States.

Does this notice apply to elementary school, middle school, and high school students in F–1 status?

Yes. However, this notice does not by itself reduce the required course load for F–1 nonimmigrant students from Haiti enrolled in kindergarten through grade 12 at a private school, or grades 9 through 12 at a public high school. Such students must maintain the minimum number of hours of class attendance per week prescribed by the academic institution for normal progress toward graduation, as required under 8 CFR 214.2(f)(6)(i)(E). The suspension of certain regulatory requirements related to employment through this notice is applicable to all eligible F–1 nonimmigrant students regardless of educational level. Eligible F–1 nonimmigrant students from Haiti enrolled in an elementary school,

[28] DHS considers students who are compliant with ICE coronavirus disease 2019 (COVID–19) guidance for nonimmigrant students to be in compliance with regulations while such COVID–19 guidance remains in effect. *See* ICE Guidance and Frequently Asked Questions on COVID–19, *https://www.ice.gov/coronavirus* (last visited Nov. 30, 2022).

[29] Because the suspension of requirements under this notice applies throughout an academic term during which the suspension is in effect, DHS considers an F–1 nonimmigrant student who engages in a reduced course load or employment (or both) after this notice is effective to be engaging in a ''full course of study,'' *see* 8 CFR 214.2(f)(6), and eligible for employment authorization, through the end of any academic term for which such student is matriculated as of August 3, 2024, provided the student satisfies the minimum course load requirements in this notice.

[30] *See* 8 CFR 214.2(f)(6).

middle school, or high school may benefit from the suspension of the requirement in 8 CFR 214.2(f)(9)(i) that limits on-campus employment to 20 hours per week while school is in session.

On-Campus Employment Authorization

Will an F–1 nonimmigrant student who receives on-campus employment authorization under this notice be authorized to work more than 20 hours per week while school is in session?

Yes. For an F–1 nonimmigrant student covered in this notice, the Secretary is suspending the applicability of the requirement in 8 CFR 214.2(f)(9)(i) that limits an F–1 nonimmigrant student's on-campus employment to 20 hours per week while school is in session. An eligible F–1 nonimmigrant student has authorization to work more than 20 hours per week while school is in session if the DSO has entered the following statement in the remarks field of the student's SEVIS record, which will be reflected on the student's Form I–20:

Approved for more than 20 hours per week of on-campus employment and reduced course load, under the Special Student Relief authorization from [DSO must insert the beginning date of this notice or the beginning date of the student's employment, whichever date is later] until [DSO must insert the student's program end date or the end date of this notice, whichever date comes first].[31]

To obtain on-campus employment authorization, the F–1 nonimmigrant student must demonstrate to the DSO that the employment is necessary to avoid severe economic hardship directly resulting from the current crisis in Haiti. An F–1 nonimmigrant student authorized by the DSO to engage in on-campus employment by means of this notice does not need to file any applications with U.S. Citizenship and Immigration Services (USCIS). The standard rules permitting full-time employment on-campus when school is not in session or during school vacations apply, as described in 8 CFR 214.2(f)(9)(i).

Will an F–1 nonimmigrant student who receives on-campus employment authorization under this notice have authorization to reduce the normal course load and still maintain his or her F–1 nonimmigrant student status?

Yes. DHS will deem an F–1 nonimmigrant student who receives on-campus employment authorization under this notice to be engaged in a ''full course of study'' [32] for the purpose of maintaining their F–1 nonimmigrant student status for the duration of the on-campus employment, if the student satisfies the minimum course load requirement described in this notice, consistent with 8 CFR 214.2(f)(6)(i)(F). However, the authorization to reduce the normal course load is solely for DHS purposes of determining valid F–1 nonimmigrant student status. Nothing in this notice mandates that school officials allow an F–1 nonimmigrant student to take a reduced course load if the reduction would not meet the academic institution's minimum course load requirement for continued enrollment.[33]

Off-Campus Employment Authorization

What regulatory requirements does this notice temporarily suspend relating to off-campus employment?

For an F–1 nonimmigrant student covered by this notice, as provided under 8 CFR 214.2(f)(9)(ii)(A), the Secretary is suspending the following regulatory requirements relating to off-campus employment:

(a) The requirement that a student must have been in F–1 nonimmigrant student status for one full academic year to be eligible for off-campus employment;

(b) The requirement that an F–1 nonimmigrant student must demonstrate that acceptance of employment will not interfere with the student's carrying a full course of study;

(c) The requirement that limits an F–1 nonimmigrant student's employment authorization to no more than 20 hours per week of off-campus employment while the school is in session; and

(d) The requirement that the student demonstrate that employment under 8 CFR 214.2(f)(9)(i) is unavailable or otherwise insufficient to meet the needs that have arisen as a result of the unforeseen circumstances.

Will an F–1 nonimmigrant student who receives off-campus employment authorization under this notice have authorization to reduce the normal course load and still maintain F–1 nonimmigrant status?

Yes. DHS will deem an F–1 nonimmigrant student who receives off-campus employment authorization by means of this notice to be engaged in a ''full course of study'' [34] for the purpose of maintaining F–1 nonimmigrant student status for the duration of the student's employment authorization if the student satisfies the minimum course load requirement described in this notice, consistent with 8 CFR 214.2(f)(6)(i)(F). However, the authorization for a reduced course load is solely for DHS purposes of determining valid F–1 nonimmigrant student status. Nothing in this notice mandates that school officials allow an F–1 nonimmigrant student to take a reduced course load if such reduced course load would not meet the school's minimum course load requirement.[35]

How may an eligible F–1 nonimmigrant student obtain employment authorization for off-campus employment with a reduced course load under this notice?

An F–1 nonimmigrant student must file a Form I–765, Application for Employment Authorization, with USCIS to apply for off-campus employment authorization based on severe economic hardship directly resulting from the current crisis in Haiti.[36] Filing instructions are located at *https://www.uscis.gov/i-765.*

Fee considerations. Submission of a Form I–765 currently requires payment of a $410 fee. An applicant who is unable to pay the fee may submit a completed Form I–912, Request for Fee Waiver, along with the Form I–765, Application for Employment Authorization. *See www.uscis.gov/feewaiver.* The submission must include an explanation about why USCIS should grant the fee waiver and the reason(s) for the inability to pay, and any evidence to support the reason(s). *See* 8 CFR 103.7(c).

Supporting documentation. An F–1 nonimmigrant student seeking off-campus employment authorization due to severe economic hardship must demonstrate the following to their DSO:

[31] Because the suspension of requirements under this notice applies throughout an academic term during which the suspension is in effect, DHS considers an F–1 nonimmigrant student who engages in a reduced course load or employment (or both) after this notice is effective to be engaging in a ''full course of study,'' *see* 8 CFR 214.2(f)(6), and eligible for employment authorization, through the end of any academic term for which such student is matriculated as of August 3, 2024, provided the student satisfies the minimum course load requirements in this notice.

[32] *See* 8 CFR 214.2(f)(6).

[33] Minimum course load requirement for enrollment in a school must be established in a publicly available document (*e.g.,* catalog, website, or operating procedure), and it must be a standard applicable to all students (U.S. citizens and foreign students) enrolled at the school.

[34] *See* 8 CFR 214.2(f)(6).

[35] Minimum course load requirement for enrollment in a school must be established in a publicly available document (*e.g.,* catalog, website, or operating procedure), and it must be a standard applicable to all students (U.S. citizens and foreign students) enrolled at the school.

[36] *See* 8 CFR 274a.12(c)(3)(iii).

(1) This employment is necessary to avoid severe economic hardship; and

(2) The hardship is a direct result of the current crisis in Haiti.

If the DSO agrees that the F–1 nonimmigrant student is entitled to receive such employment authorization, the DSO must recommend application approval to USCIS by entering the following statement in the remarks field of the student's SEVIS record, which will then appear on that student's Form I–20:

Recommended for off-campus employment authorization in excess of 20 hours per week and reduced course load under the Special Student Relief authorization from the date of the USCIS authorization noted on Form I–766 until [DSO must insert the program end date or the end date of this notice, whichever date comes first].[37]

The F–1 nonimmigrant student must then file the properly endorsed Form I–20 and Form I–765 according to the instructions for the Form I–765. The F–1 nonimmigrant student may begin working off campus only upon receipt of the EAD from USCIS.

DSO recommendation. In making a recommendation that an F–1 nonimmigrant student be approved for Special Student Relief, the DSO certifies that:

(a) The F–1 nonimmigrant student is in good academic standing and is carrying a ''full course of study'' [38] at the time of the request for employment authorization;

(b) The F–1 nonimmigrant student is a citizen of Haiti, regardless of country of birth (or an individual having no nationality who last habitually resided in Haiti), and is experiencing severe economic hardship as a direct result of the current crisis in Haiti, as documented on the Form I–20;

(c) The F–1 nonimmigrant student has confirmed that the student will comply with the reduced course load requirements of this notice and register for the duration of the authorized employment for a minimum of six semester or quarter hours of instruction per academic term if at the undergraduate level, or for a minimum of three semester or quarter hours of instruction per academic term if the student is at the graduate level; [39] and

(d) The off-campus employment is necessary to alleviate severe economic hardship to the individual as a direct result of the current crisis in Haiti.

Processing. To facilitate prompt adjudication of the student's application for off-campus employment authorization under 8 CFR 214.2(f)(9)(ii)(C), the F–1 nonimmigrant student should do both of the following:

(a) Ensure that the application package includes the following documents:

(1) A completed Form I–765 with all applicable supporting evidence;

(2) The required fee or properly documented fee waiver request as defined in 8 CFR 103.7(c); and

(3) A signed and dated copy of the student's Form I–20 with the appropriate DSO recommendation, as previously described in this notice; and

(b) Send the application in an envelope which is clearly marked on the front of the envelope, bottom right-hand side, with the phrase ''SPECIAL STUDENT RELIEF.'' [40] Failure to include this notation may result in significant processing delays.

If USCIS approves the student's Form I–765, USCIS will send the student an EAD as evidence of employment authorization. The EAD will contain an expiration date that does not exceed the end of the granted temporary relief.

Temporary Protected Status (TPS) Considerations

Can an F–1 nonimmigrant student apply for TPS and for benefits under this notice at the same time?

Yes. An F–1 nonimmigrant student who has not yet applied for TPS or for other relief that reduces the student's course load per term and permits an increased number of work hours per week, such as Special Student Relief,[41] under this notice has two options.

Under the first option, the nonimmigrant student may apply for TPS according to the instructions in the USCIS notice designating Haiti for TPS elsewhere in this issue of the **Federal Register**. All TPS applicants must file a Form I–821, Application for Temporary Protected Status, with the appropriate fee (or request a fee waiver). Although not required to do so, if F–1 nonimmigrant students want to obtain a new TPS-related EAD that is valid through August 3, 2024, they must file Form I–765 and pay the Form I–765 fee (or request a fee waiver). An F–1 student who already has a TPS-related EAD with a ''Card Expires'' date of February 3, 2023 will benefit from an automatic extension of the EAD through February 3, 2024, through the **Federal Register** notice extending the designation of Haiti for TPS. A Haiti TPS-related EAD can also be automatically extended for up to 540 days [42] if an F–1 nonimmigrant student who is a TPS beneficiary properly files a renewal Form I–765 application and pays the Form I–765 fee (or requests a fee waiver) during the filing period described in the **Federal Register** notice extending the designation of Haiti for TPS, but no later than February 3, 2023. After receiving the TPS-related EAD, an F–1 nonimmigrant student may request that their DSO make the required entry in SEVIS, issue an updated Form I–20, as described in this notice, and notate that the nonimmigrant student has been authorized to carry a reduced course load and is working pursuant to a TPS-related EAD. So long as the nonimmigrant student maintains the minimum course load described in this notice, does not otherwise violate their nonimmigrant status, including as provided under 8 CFR 214.1(g), and maintains TPS, then the student maintains F–1 status and TPS concurrently.

Under the second option, the nonimmigrant student may apply for an EAD under Special Student Relief by filing Form I–765 at the location specified in the filing instructions. At the same time, the F–1 nonimmigrant student may file a separate TPS application but must submit the Form I–821 according to the instructions provided in the **Federal Register** notice designating Haiti for TPS. If the F–1 nonimmigrant student has already applied for employment authorization under Special Student Relief, they are not required to submit the Form I–765 as part of the TPS application. However, some nonimmigrant students may wish to obtain a TPS-related EAD in light of certain extensions that may be available to EADs with an A–12 or C–19 category code. The nonimmigrant student should check the appropriate box when filling out Form I–821 to indicate whether a TPS-related EAD is being requested. Again, so long as the nonimmigrant student maintains the minimum course load described in this notice and does not otherwise violate the student's nonimmigrant status, included as provided under 8 CFR 214.1(g), the

[37] Because the suspension of requirements under this notice applies throughout an academic term during which the suspension is in effect, DHS considers an F–1 nonimmigrant student who engages in a reduced course load or employment (or both) after this notice is effective to be engaging in a ''full course of study,'' *see* 8 CFR 214.2(f)(6), and eligible for employment authorization, through the end of any academic term for which such student is matriculated as of August 3, 2024, provided the student satisfies the minimum course load requirements in this notice.

[38] *See* 8 CFR 214.2(f)(6).

[39] 8 CFR 214.2(f)(5)(v).

[40] Guidance for direct filing addresses can be found here: *https://www.uscis.gov/i-765-addresses.*

[41] *See* DHS Study in the States, Special Student Relief, *https://studyinthestates.dhs.gov/students/special-student-relief* (last visited Nov. 30, 2022).

[42] 8 CFR 274a.13(d)(5).

nonimmigrant will be able to maintain compliance requirements for F–1 nonimmigrant student status while having TPS.

When a student applies simultaneously for TPS and benefits under this notice, what is the minimum course load requirement while an application for employment authorization is pending?

The F–1 nonimmigrant student must maintain normal course load requirements for a ''full course of study'' [43] unless or until the nonimmigrant student receives employment authorization under this notice. TPS-related employment authorization, by itself, does not authorize a nonimmigrant student to drop below twelve credit hours, or otherwise applicable minimum requirements (*e.g.,* clock hours for non-traditional academic programs). Once approved for Special Student Relief employment authorization, the F–1 nonimmigrant student may drop below twelve credit hours, or otherwise applicable minimum requirements (with a minimum of six semester or quarter hours of instruction per academic term if at the undergraduate level, or for a minimum of three semester or quarter hours of instruction per academic term if at the graduate level). *See* 8 CFR 214.2(f)(5)(v), (f)(6), and (f)(9)(i) and (ii).

How does a student who has received a TPS-related EAD then apply for authorization to take a reduced course load under this notice?

There is no further application process with USCIS if a student has been approved for a TPS-related EAD. The F–1 nonimmigrant student must demonstrate and provide documentation to the DSO of the direct economic hardship resulting from the current crisis in Haiti. The DSO will then verify and update the student's record in SEVIS to enable the F–1 nonimmigrant student with TPS to reduce the course load without any further action or application. No other EAD needs to be issued for the F–1 nonimmigrant student to have employment authorization.

Can a noncitizen who has been granted TPS apply for reinstatement of F–1 nonimmigrant student status after the noncitizen's F–1 nonimmigrant student status has lapsed?

Yes. Regulations permit certain students who fall out of F–1 nonimmigrant student status to apply for reinstatement. *See* 8 CFR 214.2(f)(16). This provision might apply to students who worked on a TPS-related EAD or dropped their course load before the date of publication of this notice, and therefore fell out of student status. These students must satisfy the criteria set forth in the F–1 nonimmigrant student status reinstatement regulations.

How long will this notice remain in effect?

This notice grants temporary relief until August 3, 2024,[44] to eligible F–1 nonimmigrant students. DHS will continue to monitor the situation in Haiti. Should the special provisions authorized by this notice need modification or extension, DHS will announce such changes in the **Federal Register**.

Paperwork Reduction Act (PRA)

An F–1 nonimmigrant student seeking off-campus employment authorization due to severe economic hardship resulting from the current crisis in Haiti must demonstrate to the DSO that this employment is necessary to avoid severe economic hardship. A DSO who agrees that a nonimmigrant student should receive such employment authorization must recommend an application approval to USCIS by entering information in the remarks field of the student's SEVIS record. The authority to collect this information is in the SEVIS collection of information currently approved by the Office of Management and Budget (OMB) under OMB Control Number 1653–0038.

This notice also allows an eligible F–1 nonimmigrant student to request employment authorization, work an increased number of hours while the academic institution is in session, and reduce their course load while continuing to maintain F–1 nonimmigrant student status.

To apply for employment authorization, certain F–1 nonimmigrant students must complete and submit a currently approved Form I–765 according to the instructions on the form. OMB has previously approved the collection of information contained on the current Form I–765, consistent with the PRA (OMB Control No. 1615–0040). Although there will be a slight increase in the number of Form I–765 filings because of this notice, the number of filings currently contained in the OMB annual inventory for Form I–765 is sufficient to cover the additional filings. Accordingly, there is no further action required under the PRA.

Alejandro Mayorkas,

Secretary, U.S. Department of Homeland Security.

[FR Doc. 2023–01593 Filed 1–25–23; 8:45 am]

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[43] *See* 8 CFR 214.2(f)(6).

[44] Because the suspension of requirements under this notice applies throughout an academic term during which the suspension is in effect, DHS considers an F–1 nonimmigrant student who engages in a reduced course load or employment (or both) after this notice is effective to be engaging in a ''full course of study,'' *see* 8 CFR 214.2(f)(6), and eligible for employment authorization, through the end of any academic term for which such student is matriculated as of August 3, 2024, provided the student satisfies the minimum course load requirement in this notice. DHS also considers students who engage in online coursework pursuant to ICE coronavirus disease 2019 (COVID–19) guidance for nonimmigrant students to be in compliance with regulations while such guidance remains in effect. *See* ICE Guidance and Frequently Asked Questions on COVID–19, Nonimmigrant Students & SEVP-Certified Schools: Frequently Asked Questions, *https://www.ice.gov/coronavirus* (last visited Nov. 30, 2022).

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[CIS No. 2737–22; DHS Docket No. USCIS–2014–0001]

RIN 1615–ZB70

Extension and Redesignation of Haiti for Temporary Protected Status

AGENCY: U.S. Citizenship and Immigration Services (USCIS), Department of Homeland Security (DHS).

ACTION: Notice of Temporary Protected Status (TPS) extension and redesignation.

SUMMARY: Through this notice, the Department of Homeland Security (DHS) announces that the Secretary of Homeland Security (Secretary) is extending the designation of Haiti for Temporary Protected Status (TPS) for 18 months, beginning on February 4, 2023, and ending on August 3, 2024. This extension allows existing TPS beneficiaries to retain TPS through August 3, 2024, so long as they continue to meet the eligibility requirements for TPS. Existing TPS beneficiaries who wish to extend their status through August 3, 2024, must re-register during the 60-day re-registration period described in this notice. The Secretary is also redesignating Haiti for TPS. The redesignation of Haiti allows additional Haitian nationals (and individuals having no nationality who last habitually resided in Haiti) who have been continuously residing in the United States since November 6, 2022, to apply for TPS for the first time during the initial registration period described under the redesignation information in

this notice. In addition to demonstrating continuous residence in the United States since November 6, 2022, and meeting other eligibility criteria, applicants for TPS under this designation must demonstrate that they have been continuously physically present in the United States since February 4, 2023, the effective date of this redesignation of Haiti for TPS.

DATES:

Extension of Designation of Haiti for TPS: The 18-month extension of Haiti's designation for TPS begins on February 4, 2023, and will remain in effect for 18 months, ending on August 3, 2024. The extension impacts existing beneficiaries of TPS.

Re-registration: The 60-day re-registration period for existing beneficiaries runs from January 26, 2023 through March 27, 2023. (*Note:* It is important for re-registrants to timely re-register during the registration period and not to wait until their Employment Authorization Documents (EADs) expire, as delaying re-registration could result in gaps in their employment authorization documentation.) [1]

Redesignation of Haiti for TPS: The 18-month redesignation of Haiti for TPS begins on February 4, 2023, and will remain in effect for 18 months, ending on August 3, 2024. The redesignation impacts potential first-time applicants and others who do not currently have TPS.

First-time Registration: The initial registration period for new applicants under the Haiti TPS redesignation begins on January 26, 2023 and will remain in effect through August 3, 2024.

FOR FURTHER INFORMATION CONTACT: You may contact Rená Cutlip-Mason, Chief, Humanitarian Affairs Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security, by mail at 5900 Capital Gateway Drive, Camp Springs, MD 20746, or by phone at 800–375–5283.

For further information on TPS, including guidance on the registration process and additional information on eligibility, please visit the USCIS TPS web page at *https://www.uscis.gov/tps.* You can find specific information about Haiti's TPS designation by selecting ''Haiti'' from the menu on the left side of the TPS web page.

If you have additional questions about TPS, please visit *https://www.uscis.gov/tools.* Our online virtual assistant, Emma, can answer many of your questions and point you to additional information on our website. If you are unable to find your answers there, you may also call our USCIS Contact Center at 800–375–5283 (TTY 800–767–1833).

Applicants seeking information about the status of their individual cases may check Case Status Online, available on the USCIS website at *https://www.uscis.gov,* or visit the USCIS Contact Center at *https://www.uscis.gov/contactcenter.*

Further information will also be available at local USCIS offices upon publication of this notice.

SUPPLEMENTARY INFORMATION:

Table of Abbreviations

BIA—Board of Immigration Appeals
CFR—Code of Federal Regulations
DHS—U.S. Department of Homeland Security
DOS—U.S. Department of State
EAD—Employment Authorization Document
FNC—Final Nonconfirmation
Form I–765—Application for Employment Authorization
Form I–797—Notice of Action (Approval Notice)
Form I–821—Application for Temporary Protected Status
Form I–9—Employment Eligibility Verification
Form I–912—Request for Fee Waiver
Form I–94—Arrival/Departure Record
FR—Federal Register
Government—U.S. Government
IER—U.S. Department of Justice, Civil Rights Division, Immigrant and Employee Rights Section
IJ—Immigration Judge
INA—Immigration and Nationality Act
SAVE—USCIS Systematic Alien Verification for Entitlements Program
Secretary—Secretary of Homeland Security
TPS—Temporary Protected Status
TTY—Text Telephone
USCIS—U.S. Citizenship and Immigration Services
U.S.C.—United States Code

Purpose of This Action (TPS)

Through this notice, DHS sets forth procedures necessary for nationals of Haiti (or individuals having no nationality who last habitually resided in Haiti) to (1) re-register for TPS and apply for renewal of their EADs with USCIS or (2) submit an initial registration application under the redesignation and apply for an EAD.

Individuals who previously registered for TPS under the August 3, 2021 prior designation of Haiti and whose applications have been granted must re-register properly within the 60-day re-registration period in order to maintain TPS and avoid withdrawal of their TPS following appropriate procedures. *See* 8 CFR 244.14. If your TPS is currently continuing under the court order in *Ramos,* re-registering for TPS under this Notice does not affect the continuation of your TPS while the order remains in effect. However, if the court order is no longer in effect, re-registering for TPS under this **Federal Register** Notice will help ensure that you have TPS until the end of the designation as long as you remain eligible.

For individuals who have already been granted TPS under Haiti's August 3, 2021 designation or the July 23, 2011 designation and who continue to have TPS, the 60-day re-registration period runs from January 26, 2023 through March 27, 2023.

USCIS will issue new EADs with an August 3, 2024 expiration date to eligible Haitian TPS beneficiaries who timely re-register and apply for EADs.

Given the time frames involved with processing TPS re-registration applications, DHS recognizes that not all re-registrants may receive new EADs before their current EADs expire. Accordingly, through this **Federal Register** notice, DHS automatically extends the validity of EADs previously issued under the August 3, 2021 TPS designation of Haiti through February 3, 2024. Therefore, as proof of continued employment authorization through February 3, 2024, TPS beneficiaries can show their EADs that have the notation A–12 or C–19 under Category and a ''Card Expires'' date of February 3, 2023. This notice explains how TPS beneficiaries and their employers may determine which EADs are automatically extended and how this affects the Form I–9, Employment Eligibility Verification, E-Verify, and USCIS Systematic Alien Verification for Entitlements (SAVE) processes.[2]

Individuals who have a Haiti TPS application (Form I–821) and/or Application for Employment Authorization (Form I–765) that was still pending as of January 26, 2023 do

[1] Individuals with TPS who were granted under the 2011 designation of Haiti and who are covered under the preliminary injunction that requires DHS to continue their TPS and TPS-related documents, unless their TPS has been withdrawn for individual ineligibility, retain their TPS and their documents remain valid through June 30, 2024 in accordance with the **Federal Register** notice published at 87 FR 68717 (Nov. 16, 2022) or any superseding such litigation-related notice that DHS may issue. *See Ramos, et al.* v. *Nielsen, et al.,* 321 F.Supp.3d 1083 (N.D. Cal. Oct. 3, 2018) (''*Ramos*''), *vacated Ramos* v. *Wolf,* 975 F.3d 872 (9th Cir. 2020), *petition for en banc rehearing* filed Nov. 30, 2020 (No. 18–16981). However, such individuals may re-register under this notice, which will help ensure that their TPS continues (if they remain eligible) as long as Haiti's designation exists even if the *Ramos* injunction ceases.

[2] Certain EADs and other TPS documents issued to individuals covered by the *Ramos* injunction remain valid in accordance with that court order. For details, please *see* 86 FR 50725 (Sept. 10, 2021). If a superseding litigation-related notice is published that affects individuals under *Ramos,* DHS will also notify the public on the USCIS website.

not need to file either application again. If USCIS approves an individual's Form I–821, USCIS will grant the individual TPS through August 3, 2024. Similarly, if USCIS approves a pending TPS-related Form I–765 filed in connection with a Form I–821, USCIS will issue the individual a new EAD that will be valid through the same date.

Under the redesignation, individuals who currently do not have TPS may submit an initial application during the initial registration period that runs from January 26, 2023 through the full length of the redesignation period ending August 3, 2024.[3] In addition to demonstrating continuous residence in the United States since November 6, 2022, and meeting other eligibility criteria, applicants for TPS under this redesignation must demonstrate that they have been continuously physically present in the United States since February 4, 2023,[4] the effective date of this redesignation of Haiti, before USCIS may grant them TPS. DHS estimates that approximately 105,000 individuals may become newly eligible for TPS under the redesignation of Haiti.

What is Temporary Protected Status (TPS)?

- TPS is a temporary immigration status granted to eligible nationals of a foreign state designated for TPS under the Immigration and Nationality Act (INA), or to eligible individuals without nationality who last habitually resided in the designated foreign state, regardless of their country of birth.
- During the TPS designation period, TPS beneficiaries are eligible to remain in the United States, may not be removed, and are authorized to work so long as they continue to meet the requirements of TPS. They may apply for and receive EADs as evidence of employment authorization.
- TPS beneficiaries may also apply for and be granted travel authorization as a matter of DHS discretion.
- To qualify for TPS, beneficiaries must meet the eligibility standards at INA section 244(c)(1)–(2), 8 U.S.C. 1254a(c)(1)–(2).
- When the Secretary terminates a foreign state's TPS designation, beneficiaries return to one of the following:
  - The same immigration status or category that they maintained before TPS, if any (unless that status or category has since expired or terminated); or
  - Any other lawfully obtained immigration status or category they received while registered for TPS, as long as it is still valid beyond the date TPS terminates.

When was Haiti designated for TPS?

Haiti was initially designated on the basis of extraordinary and temporary conditions that prevented nationals of Haiti from returning in safety. *See Designation of Haiti for Temporary Protected Status,* 75 FR 3476 (Jan. 21, 2010). Following the initial designation, TPS for Haiti was extended and redesignated once from July 23, 2011, through January 22, 2013, based on extraordinary and temporary conditions.[5] Thereafter, TPS for Haiti was extended four times based on extraordinary and temporary conditions: (1) from January 23, 2013, through July 22, 2014;[6] (2) from July 23, 2014, through January 22, 2016;[7] (3) from January 23, 2016, through July 22, 2017;[8] and (4) from July 23, 2017, through January 22, 2018.[9] Subsequently, the Secretary announced the termination of the TPS designation of Haiti effective July 22, 2019.[10]

The termination of Haiti's 2011 TPS designation is being challenged in several lawsuits, and court injunctions require DHS to continue TPS for Haiti temporarily pending further court order.[11] Secretary Mayorkas newly designated Haiti on the basis of extraordinary and temporary conditions effective August 3, 2021, through February 3, 2023.[12]

What authority does the Secretary have to extend the designation of Haiti for TPS?

Section 244(b)(1) of the INA, 8 U.S.C. 1254a(b)(1), authorizes the Secretary, after consultation with appropriate agencies of the U.S. Government, to designate a foreign state (or part thereof) for TPS if the Secretary determines that certain country conditions exist.[13] The decision to designate any foreign state (or part thereof) is a discretionary decision, and there is no judicial review of any determination with respect to the designation, termination, or extension of a designation. *See* INA section 244(b)(5)(A); 8 U.S.C. 1254a(b)(5)(A).[14] The Secretary, in his or her discretion, may then grant TPS to eligible nationals of that foreign state (or individuals having no nationality who last habitually resided in the designated foreign state). *See* INA section 244(a)(1)(A), 8 U.S.C. 1254a(a)(1)(A).

At least 60 days before the expiration of a foreign state's TPS designation or extension, the Secretary, after consultation with appropriate U.S. Government agencies, must review the

[3] In general, individuals must be given an initial registration period of no less than 180 days to register for TPS, but the Secretary has discretion to provide for a longer registration period. *See* 8 U.S.C. 1254a(c)(1)(A)(iv). In keeping with the humanitarian purpose of TPS and advancing the goal of ensuring ''the Federal Government eliminates . . . barriers that prevent immigrants from accessing government services available to them'' under Executive Order 14012, *Restoring Faith in Our Legal Immigration Systems and Strengthening Integration and Inclusion Efforts for New Americans*, 86 FR 8277 (Feb. 5, 2021), the Secretary has exercised his discretion to provide for a TPS initial registration period that coincides with the full period of a Haiti's redesignation.

[4] The ''continuous physical presence date'' (CPP) is the effective date of the most recent TPS designation of the country, which is either the publication date of the designation announcement in the **Federal Register** or such later date as the Secretary may establish. The ''continuous residence date'' (CR) is any date established by the Secretary when a country is designated (or sometimes redesignated) for TPS. *See* INA section 244(b)(2)(A) (effective date of designation); 244(c)(1)(A)(i–ii) (discussing CR and CPP date requirements).

[5] *See Extension and Redesignation of Haiti for Temporary Protected Status,* 76 FR 29000 (May 19, 2011).

[6] *See Extension of the Designation of Haiti for Temporary Protected Status,* 77 FR 59943 (Oct. 1, 2012).

[7] *See Extension of the Designation of Haiti for Temporary Protected Status,* 79 FR 11808 (Mar. 3, 2014).

[8] *See Extension of the Designation of Haiti for Temporary Protected Status,* 80 FR 51582 (Aug. 25, 2015).

[9] *See Extension of the Designation of Haiti for Temporary Protected Status,* 82 FR 23830 (May 24, 2017).

[10] *See Termination of the Designation of Haiti for Temporary Protected Status,* 83 FR 2648 (Jan. 18, 2018).

[11] *See Ramos* v. *Wolf,* 975 F.3d 872 (9th Cir. 2020), *petition for en banc rehearing* filed Nov. 30, 2020 (No. 18–16981) (district court's preliminary injunction against termination of six countries' TPS, including TPS for Haiti, remains in effect pending 9th Circuit consideration of plaintiffs' request for *en banc* rehearing of appellate panel decision to vacate the district court injunction); *Saget* v. *Trump,* No. 1:18–cv–1599 (E.D.N.Y. 2019) (injunction issued, but dismissed as moot, Oct. 15, 2021)); *NAACP* v. *DHS,* No. 18–cv–00239 (D. Md.); and *Centro Presente* v. *Trump,* No. 18–cv–10340 (D. Mass).

[12] *See Designation of Haiti for Temporary Protected Status,* 86 FR 41863 (Aug. 3, 2021).

[13] INA section 244(b)(1) ascribes this power to the Attorney General. Congress transferred this authority from the Attorney General to the Secretary of Homeland Security. *See* Homeland Security Act of 2002, Public Law 107–296, 116 Stat. 2135. The Secretary may designate a country (or part of a country) for TPS on the basis of ongoing armed conflict such that returning would pose a serious threat to the personal safety of the country's nationals and habitual residents, environmental disaster (including an epidemic), or extraordinary and temporary conditions in the country that prevent the safe return of the country's nationals. For environmental disaster-based designations, certain other statutory requirements must be met, including that the foreign government must request TPS. A designation based on extraordinary and temporary conditions cannot be made if the Secretary finds that allowing the country's nationals to remain temporarily in the United States is contrary to the U.S. national interest. *Id.,* at section 244(b)(1).

[14] This issue of judicial review is the subject of litigation. *See, e.g., Ramos* v. *Wolf,* 975 F.3d 872 (9th Cir. 2020), *petition for en banc rehearing* filed Nov. 30, 2020 (No. 18–16981); *Saget* v. *Trump,* 375 F. Supp. 3d 280 (E.D.N.Y. 2019).

conditions in the foreign state designated for TPS to determine whether they continue to meet the conditions for the TPS designation. *See* INA section 244(b)(3)(A), 8 U.S.C. 1254a(b)(3)(A). If the Secretary determines that the foreign state continues to meet the conditions for TPS designation, the designation will be extended for an additional period of 6 months or, in the Secretary's discretion, 12 or 18 months. *See* INA section 244(b)(3)(A), (C), 8 U.S.C. 1254a(b)(3)(A), (C). If the Secretary determines that the foreign state no longer meets the conditions for TPS designation, the Secretary must terminate the designation. *See* INA section 244(b)(3)(B), 8 U.S.C. 1254a(b)(3)(B).

What is the Secretary's authority to redesignate Haiti for TPS?

In addition to extending an existing TPS designation, the Secretary, after consultation with appropriate Government agencies, may redesignate a country (or part thereof) for TPS. *See* INA section 244(b)(1), 8 U.S.C. 1254a(b)(1); *see also* INA section 244(c)(1)(A)(i), 8 U.S.C. 1254a(c)(1)(A)(i) (requiring that ''the alien has been continuously physically present since the effective date of *the most recent designation of the state*'') (emphasis added).[15]

When the Secretary designates or redesignates a country for TPS, the Secretary also has the discretion to establish the date from which TPS applicants must demonstrate that they have been ''continuously resid[ing]'' in the United States. *See* INA section 244(c)(1)(A)(ii), 8 U.S.C. 1254a(c)(1)(A)(ii). The Secretary has determined that the ''continuous residence'' date for applicants for TPS under the redesignation of Haiti will be November 6, 2022. Initial applicants for TPS under this redesignation must also show they have been ''continuously physically present'' in the United States since February 4, 2023, which is the effective date of the Secretary's redesignation of Haiti. *See* INA section 244(c)(1)(A)(i), 8 U.S.C. 1254a(c)(1)(A)(i). For each initial TPS application filed under the redesignation, the final determination of whether the applicant has met the ''continuous physical presence'' requirement cannot be made until February 4, 2023, the effective date of this redesignation for Haiti. USCIS, however, will issue employment authorization documentation, as appropriate, during the registration period in accordance with 8 CFR 244.5(b).

Why is the Secretary extending the TPS designation for Haiti and simultaneously redesignating Haiti for TPS through August 3, 2024?

DHS has reviewed country conditions in Haiti. Based on the review, including consultation with DOS and other U.S. Government agencies, the Secretary has determined that an 18-month TPS extension is warranted because the extraordinary and temporary conditions supporting Haiti's TPS designation remain and that such extension is not contrary to the national interest of the United States. The Secretary has further determined that redesignating Haiti for TPS based on extraordinary and temporary conditions under INA section 244(b)(3)(C), 8 U.S.C. 1254a(b)(1)(C) is warranted, including a determination that redesignation is not contrary to the national interest of the United States, and is changing the ''continuous residence'' and ''continuous physical presence'' dates that applicants must meet to be eligible for TPS.

Overview

DHS has conducted a thorough review of country conditions in Haiti. Haiti is experiencing economic, security, political, and health crises simultaneously. Haitian gangs are the primary source of violence and instability in Haiti and pose an increasing threat as they expand their influence and geographic presence over portions of metropolitan Port-au-Prince.[16] Haitian political and business elites have long cultivated relationships with gang leaders to further their agendas and destabilize Haiti.[17] While elites often operationalize gangs, the gangs typically function as mercenaries responsive to the highest bidder.[18] Moreover, some gangs earn sufficient funds from kidnapping for ransom operations to function as independent criminal organizations.[19] At the same time, Haiti is confronting a humanitarian crisis, with many citizens having limited access to safety, healthcare, food, water, and economic opportunity. These circumstances continue to make return to Haiti dangerous for Haitian nationals living in the United States.

Political Situation

The Haitian parliament was dissolved in January 2020 as the mandates of two thirds of Senate members and all Chamber of Deputies members expired, and no new elections were held.[20] On July 7, 2021, President Jovenel Moïse was assassinated in his private residence in Port-au-Prince. Subsequently, Ariel Henry, whom Moïse had appointed prime minister days before the assassination, was installed as head of a new government.[21]

Since then, PM Henry and opposition groups have engaged in intermittent negotiations about a political path towards elections. On December 21, 2022, representatives of civil society, the private sector, and political groups began signing a revised political agreement known as the ''December Accord,'' which was supported by PM Henry.[22] Some opposition members, including many members of the Citizen Conference for a Haitian Solution to the Crisis, also known as Montana Group members, had not yet agreed to the accord as of January 4, 2023.[23]

The Haitian government has long been accused of corruption and ineptitude. Politicians and the business elite in Haiti have historically relied on gangs to obtain and exert power, but the gangs have grown more autonomous in recent years.[24] An April 2021 report by

[15] The extension and redesignation of TPS for Haiti is one of several instances in which the Secretary and, prior to the establishment of DHS, the Attorney General, have simultaneously extended a country's TPS designation and redesignated the country for TPS. *See, e.g.,* 76 FR 29000 (May 19, 2011) (extension and redesignation for Haiti); 69 FR 60168 (Oct. 7, 2004) (extension and redesignation for Sudan); 62 FR 16608 (Apr. 7, 1997) (extension and redesignation for Liberia).

[16] Diego Da Rin, *New Gang Battle Lines Scar Haiti as Political Deadlock Persists,* International Crisis Group (July 27, 2022), *https://www.crisisgroup.org/latin-america-caribbean/haiti/new-gang-battle-lines-scar-haiti-political-deadlock-persists.*

[17] *Id.*

[18] D.C. Beer, *Chapter 3 Haiti: The Gangs of Cité Soleil,* PRISM: National Defense University, May 24, 2016, *https://cco.ndu.edu/News/Article/780129/chapter-3-haiti-the-gangs-of-cit-soleil/.*

[19] Jennifer Jelly and Tatiana Vasquez, *The Rise of Kidnappings for Ransom in Haiti,* The Counterterrorism Group, Dec. 13, 2021, *https://www.counterterrorismgroup.com/post/the-rise-of-kidnappings-for-ransom-in-haiti.*

[20] Freedom House, *Freedom in the World 2022—Haiti* (Feb. 28, 2022), *https://freedomhouse.org/country/haiti/freedom-world/2022.*

[21] Human Rights Watch, *World Report 2022—Haiti* (Jan. 13, 2022), *https://www.hrw.org/world-report/2022/country-chapters/haiti.*

[22] Haiti Libre, *Haiti—FLASH: The PM signed a historic consensus for an inclusive transition,* Dec. 22, 2022, *https://www.haitilibre.com/en/news-38427-haiti-flash-the-pm-signed-a-historic-consensus-for-an-inclusive-transition.html.*

[23] Juno7, *Accord du 21 décembre 2022: les violons ne s'accordant pas au sein de l'accord de Montana,* Dec. 29, 2022, *https://www.juno7.ht/accord-du-21-decembre-2022-violons-laccord-de-montana/.*

[24] Diego Da Rin, *New Gang Battle Lines Scar Haiti as Political Deadlock Persists,* International Crisis Group (July 27, 2022), *https://www.crisisgroup.org/latin-america-caribbean/haiti/new-gang-battle-lines-scar-haiti-political-deadlock-persists.*

Harvard Law School's International Human Rights Clinic alleged that the Moïse government funneled money, weapons, uniforms, and vehicles to gangs like the G9, in exchange for them repressing political opponents, often brutally, and maintaining the peace in poorer neighborhoods.[25] A July 2022 International Crisis Group report stated ''collusion between state security forces and illegal armed groups has flourished in the absence of political will to hold corrupt officers accountable and because of efforts of those in power to deploy the police (as well as gangs) to serve their personal interests.'' [26]

Security Situation

Since President Moïse's assassination, Haiti has experienced a sharp deterioration in an already fragile security situation. Gang violence and kidnappings have spiked throughout the country, particularly in the capital, Port-au-Prince. The United Nations documented 934 killings, 684 injuries, and 680 kidnappings in Port-au-Prince from January to June 2022.[27] In one 10-day period in July 2022, more than 200 people were killed in gang violence in Port-au-Prince; nearly half of the decedents had no gang ties.[28] Human rights organizations have said there were more than 1,200 kidnappings in 2021, almost twice the number reported in 2020 and five times more than in 2019.[29]

There are around 200 gangs across Haiti, 95 of which operate in metropolitan Port-au-Prince. Many of Haiti's gangs have coalesced around two main alliances: the G9 and the GPèp. A struggle for dominance by various gangs has superseded the old local rivalries. Gangs have decapitated opponents in public, burnt corpses in the street, set fire to houses, and used sexual violence to intimidate residents out of collaborating with their rivals.[30] Clashes between rival gangs led to particularly high levels of gang violence in April and May 2022, leading to the temporary closure of dozens of schools, medical centers, businesses, and markets, making it difficult for people to find basic products including food, water, and medicines.[31] In May 2022, UN High Commissioner for Human Rights Michelle Bachelet described armed violence in Haiti as ''unimaginable and intolerable'' and stated that ''violence has had a severe impact on the most basic human rights of people.'' [32] Also in May, Doctors Without Borders warned that kidnappings for ransom that target many residents of Port-au-Prince, including medical personnel, were making it increasingly difficult for the population to access healthcare.[33] Gangs in Port-au-Prince targeted homeless and at-risk teens as participants in gang violence.[34] In July 2022, the UN Office for the Coordination of Humanitarian Affairs (UNOCHA) estimated that more than a third of Port-au-Prince was under the control of gangs.[35]

Haitian gangs have also attacked religious and government infrastructure. On June 10, 2022, a gang known as 5 Seconds took temporary control of the Court of First Instance, the main courthouse in Port au Prince. While the courthouse had not been used for criminal trials for several years due to persistent insecurity, the gang nevertheless forced judicial officials out and stole computers, desks, and other assets. The gang appears to have stolen or destroyed case files and evidence that the president of the Association of Haitian Magistrates said would be impossible to recover as Haitian courts do not have digital copies of files.[36] On July 27, 2022, gang members set Port-au-Prince's transitional cathedral on fire and deployed tear gas during a clash in Bel Air neighborhood, in which several people were killed and others injured by stray bullets. Local sources denounced the use of state-owned machinery by the G9 as well as a lack of action by state forces. In Ouest department, the region in which Port-au-Prince is located, members of the 400 Mawozo gang set a public prosecutor's office on fire in Croix-de-Bouquets district near the capital on the night of July 25, 2022.[37]

In mid-September, gangs blocked access to the Varreux Terminal in Port-au-Prince, the main entry point for fuel in Haiti, cutting off millions of gallons of diesel and gasoline and causing a severe fuel shortage.[38] The fuel blockage paralyzed Haiti's economy.[39] Health centers and hospitals had to close, and the distribution of water was interrupted.[40] The lack of access to clean water contributed to the outbreak of cholera in early October, and complicated efforts to respond to and contain the outbreak.[41] On October 7, the government of Haiti requested assistance from the international community to confront gangs and address the humanitarian crisis.[42] In an October 12, 2022 Press Statement, U.S. Secretary of State Antony Blinken emphasized the critical nature of the humanitarian situation in Haiti, noting that the United States is committed to continuing to help Haiti address the crisis through multiple avenues.[43] On

[25] Harvard Law School International Human Rights Clinic, *Killing with Impunity: State-Sanctioned Massacres in Haiti* (April 2021), *http://hrp.law.harvard.edu/wp-content/uploads/2021/04/Killing_With_Impunity-1.pdf.*

[26] Diego Da Rin, *New Gang Battle Lines Scar Haiti as Political Deadlock Persists,* International Crisis Group (July 27, 2022), *https://www.crisisgroup.org/latin-america-caribbean/haiti/new-gang-battle-lines-scar-haiti-political-deadlock-persists.*

[27] Haiti: UN sounds alarm over worsening gang violence across Port-au-Prince, UN News, July 16, 2022, *https://news.un.org/en/story/2022/07/1122662#:~:text=%E2%80%9CWe%20have%20so%20far%20documented,Soleil%20area%20of%20the%20city.%E2%80%9D.*

[28] BBC News, *Haiti Gang Violence: 209 killed in Cité Soleil in 10 days,* July 26, 2022, *https://www.bbc.com/news/world-latin-america-62292007.*

[29] Diego Da Rin, *New Gang Battle Lines Scar Haiti as Political Deadlock Persists,* International Crisis Group (July 27, 2022), *https://www.crisisgroup.org/latin-america-caribbean/haiti/new-gang-battle-lines-scar-haiti-political-deadlock-persists.*

[30] *Id.*

[31] Office of the High Commissioner for Human Rights, *Press Release: Haiti: Bachelet deeply disturbed by human rights impact of deteriorating security situation in Port-au-Prince* (May 17, 2022), *https://www.ohchr.org/en/press-releases/2022/05/haiti-bachelet-deeply-disturbed-human-rights-impact-deteriorating-security.*

[32] *Id.*

[33] Doctors Without Borders, *Haiti: Attacks on medical staff leave many people without health care* (May 22, 2022), *https://www.doctorswithoutborders.org/latest/haiti-attacks-medical-staff-leave-many-people-without-health-care.*

[34] InSight Crime, *Haiti Gangs Recruiting, Arming More Children* (June 3, 2022), *https://insightcrime.org/news/haiti-gangs-recruiting-arming-more-children/.*

[35] UNOCHA, *Haiti: Impact of the deteriorating security situation on humanitarian access: Background note—8 July 2022* (July 9, 2022), *https://reliefweb.int/report/haiti/haiti-impact-deteriorating-security-situation-humanitarian-access-background-note-8-july-2022.*

[36] HRW, *Haiti: Wave of Violence Deepens Crisis* (July 22, 2022), *https://reliefweb.int/report/haiti/haiti-wave-violence-deepens-crisis.*

[37] ACLED, *ACLED Regional Overview—Mexico, Central America, and the Caribbean (23–29 July 2022)* (July 29, 2022), *https://reliefweb.int/report/haiti/acled-regional-overview-mexico-central-america-and-caribbean-23-29-july-2022.*

[38] PBS NewsHour, *Haiti reaches a breaking point as the economy tanks and violence soars* (Oct. 4, 2022), *https://www.pbs.org/newshour/world/haiti-reaches-a-breaking-point-as-the-economy-tanks-and-violence-soars.*

[39] Brian Ellsworth and Harold Isaac, *UN calls for 'humanitarian corridor' in Haiti as gang blockade drags on,* Reuters, Oct. 6, 2022, *https://www.reuters.com/world/americas/un-calls-humanitarian-corridor-haiti-gang-blockade-drags-2022-10-06/.*

[40] UN News, *Haiti: Fuel crisis prompts appeal for humanitarian corridor amid cholera outbreak,* Oct. 6, 2022, *https://news.un.org/en/story/2022/10/1129317.*

[41] *Id.*

[42] Reuters, *Haiti's situation is dire and cannot persist,* State Department says, Oct. 11, 2022, *https://www.reuters.com/world/americas/haitis-situation-is-dire-cannot-persist-state-department-says-2022-10-11/.*

[43] U.S. Department of State, Press Statement, Steps to Address the Humanitarian and Security Situation in Haiti, Oct. 12, 2022, *https://www.state.gov/steps-to-address-the-humanitarian-and-security-situation-in-haiti/.*

October 15, the U.S. and Canada delivered Haitian National Police-purchased armored vehicles and other law enforcement equipment to assist in re-taking the terminal.[44] A Haitian National Police operation in early November successfully re-gained control of the fuel terminal.[45] The relatively small size of the Haitian National Police remains concerning. Out of 14,161 officers, approximately 13,000 officers are assigned to law enforcement activities.[46] Haiti has just over one police officer assigned to law enforcement activities per 1,000 inhabitants, well below the 2.2 officers per 1,000 recommended by the United Nations.[47]

Environmental Situation

Several recent environmental disasters have contributed to the extraordinary and temporary conditions in Haiti. On August 14, 2021, a 7.2 magnitude earthquake hit the southern region of Haiti, killing more than 2,200 people, injuring 12,700, destroying 130,000 homes, and leaving thousands of people in urgent need of assistance.[48] Two days later, Tropical Storm Grace's torrential rains caused floods and landslides in the same departments affected by the earthquake, as well as in Sud-Est.[49] According to the 2021 Global Climate Risk Index, Haiti was third among the countries most affected by extreme weather events between 2000 and 2019 and continues to remain vulnerable.[50] Widespread deforestation has left the country especially prone to flooding and mudslides, which strike Haiti at twice the rate as the Dominican Republic.[51]

Humanitarian Situation

Haiti has one of the highest levels of chronic food insecurity in the world with more than half of its total population chronically food insecure and 22% of children chronically malnourished, according to a September 2022 report.[52] As of October 2022, the total number of people in acute food insecurity stood at 4.7 million people, including 1.8 million people in the ''emergency'' phase on the World Food Program's (WFP) Integrated Food Security Classification Index.[53] For the first time ever, 19,000 Haitians are considered to be in the ''catastrophe'' phase (the most severe classification).[54]

Armed clashes between gangs destroyed water networks and disrupted water truck deliveries in several Port-au-Prince neighborhoods during 2022. A Doctors Without Borders project coordinator noted that in addition to an epidemic of scabies directly connected to the lack of water since the beginning of 2022, people could only ''afford small quantities of drinking water, but they [couldn't] access clean water in quantities needed for hygiene.'' [55] Adding to the struggle Haitians face to meet their basic needs, two WFP warehouses were looted and pillaged in September 2022, resulting in the loss of approximately $6 million of relief assistance, including 2,000 tons of food.[56]

Haiti continues to face many health challenges. USAID's most recent Strategic Framework report stated: ''health challenges for preventable diseases worsened after the 2010 cholera epidemic and there has been limited progress in improving health outcomes.'' [57] As of August 1, 2022, 1.4% of the country's population was fully vaccinated against COVID–19.[58] Haiti ranks among the world's bottom 10 countries in terms of COVID–19 vaccination coverage.[59]

The United Nations and the Haitian government have reported a new cholera outbreak, with the first cases detected between October 1–2, 2022.[60] As of November 15, 2022, there were 8,146 hospitalized suspected cases and 821 confirmed cases of cholera, resulting in 188 deaths.[61] The end of the two-month fuel terminal seizure allowed hospitals, water treatment plants, commercial water suppliers, and transportation networks to resume functioning, allowing for better access to cholera prevention and treatment. However, paradoxically, the availability of fuel also allowed for resumed mobility among the general population, potentially leading to increased cholera transmission.[62] In November 2022, the UN launched a ''Flash Appeal'' requesting $145.6 million to contain the outbreak and respond to other humanitarian needs throughout Haiti.[63]

Economic Situation

Amidst the political, security, and environmental crises, Haiti's economy has floundered. Haiti is among the countries with the greatest inequality in the region. The richest 20% of its population holds more than 64% of its total wealth, while the poorest 20% has less than 1%.[64] Latest estimates put the

[44] Reuters, *U.S., Canada deliver armored vehicles to Haitian police to fight gangs,* Oct. 15, 2022, *https://www.reuters.com/world/americas/us-canada-deliver-armored-vehicles-haitian-police-2022-10-15/.*

[45] Reuters, *Haitians hope for fuel supplies after police break up gang blockade at terminal,* Nov. 5, 2022, *https://www.reuters.com/world/americas/haitians-hope-fuel-supplies-after-police-break-up-gang-blockade-terminal-2022-11-05/.*

[46] United National Security Council, Letter dated 8 October 2022 from the Secretary-General addresses to the President of the Security Council, Oct. 10, 2022, *https://digitallibrary.un.org/record/3990649?ln=en.*

[47] *Id.*

[48] UNICEF, *Massive earthquake leaves devastation in Haiti* (last updated Oct. 4, 2021), *https://www.unicef.org/emergencies/massive-earthquake-devastation-haiti.*

[49] FAO, *Haiti: Urgent call for funding (September 2021–May 2022)—Emergency response to households affected by the earthquake and Tropical Storm Grace* (Sept. 10, 2021), *https://reliefweb.int/report/haiti/haiti-urgent-call-funding-september-2021-may-2022-emergency-response-households.*

[50] Germanwatch, *Global Climate Risk Index 2021* (Jan. 25, 2021), *https://reliefweb.int/report/world/global-climate-risk-index-2021.*

[51] Council on Foreign Relations, *Haiti's Troubled Path to Development* (Sept. 17, 2021), *https://www.cfr.org/backgrounder/haitis-troubled-path-development.*

[52] WFP, *WFP Haiti Country Brief, September 2022* (Sept. 30, 2022), *https://reliefweb.int/report/haiti/wfp-haiti-country-brief-september-2022.*

[53] UN News, *'Catastrophic' hunger recorded in Haiti for first time, UN warns,* Oct. 14, 2022, *https://news.un.org/en/story/2022/10/1129537#:~:text=According%20to%20the%20latest%20IPC,in%20Catastrophe%20phase%2C%20phase%205.*

[54] *Id.*

[55] Doctors Without Borders, *Returning to Haiti means death* (Aug. 12, 2022), *https://www.doctorswithoutborders.org/latest/returning-haiti-means-death.*

[56] Reuters, *Haiti looting caused loss of some $6 million in relief supplies, WFP says,* Sept. 26, 2022, *https://www.reuters.com/world/haiti-looting-caused-loss-some-6-mln-relief-supplies-wfp-says-2022-09-26/.*

[57] USAID, *Haiti Strategic Framework December 23, 2020–December 23, 2022* (July 29, 2021), *https://www.usaid.gov/sites/default/files/documents/Strategic_Framework_-_Haiti_-_December_2020-2022.pdf.*

[58] Congressional Research Service, *Haiti: Political Conflict and U.S. Policy Overview* (Aug. 2, 2022), *https://crsreports.congress.gov/product/pdf/IF/IF12182.*

[59] World Bank, *The World Bank approved $35 million to improve Haiti's COVID–19 response* (June 11, 2022), *https://reliefweb.int/report/haiti/world-bank-approved-35-million-improve-haitis-covid-19-response.*

[60] Widlore Mérancourt, Kelly Kasulis Cho, and Amanda Coletta, The Washington Post, Cholera Resurfaces in Haiti as gangs hinder access to water, hospitals, Oct. 3, 2022, *https://www.washingtonpost.com/world/2022/10/03/haiti-cholera-gang-violence-water/.*

[61] Pan American Health Organization, *Cholera Outbreak in Hispaniola, Situation Report #6,* Nov. 17, 2022, *https://www.paho.org/en/documents/cholera-outbreak-hispaniola-2022-situation-report-6.*

[62] PBS NewsHour, *Cholera overwhelms Haiti, experts warn outbreak could worsen as fuel blockade lifts,* Nov. 16, 2022, *https://www.pbs.org/newshour/world/cholera-overwhelms-haiti-experts-warn-outbreak-could-worsen-as-fuel-blockade-lifts.*

[63] UN Office for the Coordination of Humanitarian Affairs, *Haiti 2022 Cholera Flash Appeal (Mid Oct 2022–Mid Apr 2023),* Nov. 15, 2022, *https://reliefweb.int/report/haiti/haiti-2022-cholera-flash-appeal-mid-oct-2022-mid-apr-2023.*

[64] World Bank, *The World Bank in Haiti Overview* (last updated June 14, 2022), *https://www.worldbank.org/en/country/haiti/overview.*

2021 poverty rate at 52.3%, up from 51% in 2020.[65] In 2021, Haiti had a GDP per capita of $1,815, the lowest in the Latin America and the Caribbean (LAC) region and less than a fifth of the LAC average of $15,092.[66] On the UN's Human Development Index,[67] Haiti ranked 170 out of 189 in 2020.[68]

In summary, Haiti is experiencing extraordinary and temporary conditions resulting from grave insecurity and gang crime, as well as socio-economic and humanitarian conditions, including those resulting from environmental disasters aggravating food insecurity.

Based upon this review and after consultation with appropriate U.S. Government agencies, the Secretary has determined that:

- The conditions supporting Haiti's designation for TPS continue to be met. *See* INA section 244(b)(3)(C), 8 U.S.C. 1254a(b)(1)(C).
- There continue to be extraordinary and temporary conditions in Haiti that prevent Haitian nationals (or individuals having no nationality who last habitually resided in Haiti) from returning to Haiti in safety, and it is not contrary to the national interest of the United States to permit Haitian TPS beneficiaries to remain in the United States temporarily. *See* INA section 244(b)(1)(C), 8 U.S.C. 1254a(b)(1)(C).
- The designation of Haiti for TPS should be extended for an 18-month period, from February 4, 2023, through August 3, 2024. *See* INA section 244(b)(3)(C), 8 U.S.C. 1254a(b)(3)(C).
- Due to the conditions described above, Haiti should be simultaneously redesignated for TPS effective February 4, 2023, through August 3, 2024. *See* INA section 244(b)(1)(C) and (b)(2), 8 U.S.C. 1254a(b)(1)(C) and (b)(2).
- The Secretary has determined that TPS applicants under the redesignation must demonstrate that they have continuously resided in the United States since November 6, 2022.
- TPS applicants under the redesignation must demonstrate that they have been continuously physically present in the United States since February 4, 2023, the effective date of the redesignation of Haiti for TPS.
- It is estimated that approximately 105,000 additional individuals may be eligible for TPS under the redesignation of Haiti. This population includes Haitian nationals in the United States in nonimmigrant status or without immigration status.

Notice of the Designation of Haiti for TPS

By the authority vested in me as Secretary under INA section 244, 8 U.S.C. 1254a, I have determined, after consultation with the appropriate U.S. Government agencies, the statutory conditions supporting Haiti's designation for TPS on the basis of extraordinary and temporary conditions are met. *See* INA section 244(b)(1)(C), 8 U.S.C. 1254a(b)(1)(C). On the basis of this determination, I am simultaneously extending the existing designation of TPS for Haiti for 18 months, from February 4, 2023, through August 3, 2024, and redesignating Haiti for TPS for the same 18-month period. *See* INA section 244(b)(1)(C) and (b)(2); 8 U.S.C. 1254a(b)(1)(C), and (b)(2).

Alejandro N. Mayorkas,

Secretary, U.S. Department of Homeland Security.

Eligibility and Employment Authorization for TPS

Required Application Forms and Application Fees To Register or Re-Register for TPS

To register initially for TPS based on the designation of Haiti, you must submit a Form I–821, Application for Temporary Protected Status, and pay the filing fee (or request a fee waiver, which you may submit on Form I–912, Request for Fee Waiver). You may be required to pay the biometric services fee. If you can demonstrate an inability to pay the biometric services fee, you may request to have the fee waived. Please see additional information under the ''Biometric Services Fee'' section of this notice.

Individuals with existing TPS granted under the 2021 designation of Haiti must file Form-821 for re-registration as discussed above. Individuals who currently retain their TPS under the *Ramos* injunction noted in footnote 1 above, may file Form I–821 for re-registration if they wish to help ensure that their TPS continues should the *Ramos* court order end and they remain eligible. Re-registrants do not pay the $50 filing fee for the Form I–821 but must pay the biometric services fee if age 14 or older (or request a fee waiver).

TPS beneficiaries are authorized to work in the United States. You are not required to submit Form I–765 or have an EAD, but see below for more information if you want to work in the United States.

Individuals who have a Haiti TPS application (Form I–821) that was still pending as of January 26, 2023 do not need to file the application again. If USCIS approves an individual's Form I–821, USCIS will grant the individual TPS through August 3, 2024.

For more information on the application forms and fees for TPS, please visit the USCIS TPS web page at *https://www.uscis.gov/tps.* Fees for the Form I–821, the Form I–765, and biometric services are also described in 8 CFR 103.7(b)(1) (Oct. 1, 2020). In addition, the form instructions for the Form I–821 and Form I–765 provide further information on requirements and fees for both initial TPS applicants and existing TPS beneficiaries who are re-registering.

How can TPS beneficiaries obtain an Employment Authorization Document (EAD)?

Every employee must provide their employer with documentation showing that they have the legal right to work in the United States. TPS beneficiaries are eligible for an EAD, which proves their legal right to work. Those who want to obtain an EAD must file a Form I–765, Application for Employment Authorization, and pay the Form I–765 fee (or request a fee waiver, which you may submit on Form I–912, Request for Fee Waiver). TPS applicants may file this form along with their TPS application, or at a later date, provided their TPS application is still pending or has been approved. Beneficiaries with a Haiti TPS-related Form I–765 application in connection with a Form I–821 that was still pending as of January 26, 2023 do not need to file the application again. If USCIS approves a pending TPS-related Form I–765, USCIS will issue the individual a new EAD that will be valid through August 3, 2024.

Refiling an Initial TPS Registration Application After Denial of a Fee Waiver Request

If your fee waiver request is denied, you must refile your Form I–821 for TPS along with the required fees during the registration period, which extends until August 3, 2024. You may also file your Form I–765 with payment of the fee along with your TPS application or at any later date you decide you want to request an EAD during the registration period.

[65] *Id.*

[66] *Id.*

[67] The Human Development Index (HDI) is a summary measure of average achievement in key dimensions of human development: a long and healthy life, being knowledgeable and have a decent standard of living. *See* UNDP, *Human Development Index (HDI)* (last visited Aug. 15, 2022), *https://hdr.undp.org/data-center/human-development-index#/indicies/HDI.*

[68] World Bank, *The World Bank in Haiti Overview* (last updated June 14, 2022), *https://www.worldbank.org/en/country/haiti/overview.*

Refiling a TPS Re-Registration Application After Denial of a Fee Waiver Request

You should refile your Form I–821 for TPS and Form I–765 as soon as possible so USCIS can process your application and issue any EAD promptly, if you requested one. Properly filing early will also give you time to refile your application before the deadline, if USCIS does not grant your fee waiver request. If you receive a notice that USCIS did not grant your fee waiver request, and you are unable to refile by the re-registration deadline, you may still refile your Form I–821 with the biometric services fee. USCIS will review this situation to determine whether you established good cause for late TPS re-registration. However, if possible, we urge you to refile within 45 days of the date on any USCIS notice that we did not grant you a fee waiver. *See* INA section 244(c)(3)(C); 8 U.S.C. 1254a(c)(3)(C); 8 CFR 244.17(b). For more information on good cause for late re-registration, visit the USCIS TPS web page at *https://www.uscis.gov/tps.* If USCIS does not grant your fee waiver request, you may also refile your Form I–765 with the fee either with your Form I–821 or at a later time, if you choose.

Note: A re-registering TPS beneficiary age 14 and older must pay the biometric services fee (but not the Form I–821 filing fee), or request a fee waiver, when filing a TPS re-registration application. However, if you decide to wait to request an EAD, you do not have to file the Form I–765 or pay the associated Form I–765 fee (or request a fee waiver) at the time of re-registration. You may wait to seek an EAD until after USCIS has approved your TPS re-registration application or at any later date you decide you want to request an EAD. To re-register for TPS, you only need to file the Form I–821 with the biometric services fee, if applicable (or request a fee waiver).

Filing Information

USCIS offers the option to applicants for TPS under Haiti's designation to file Form I–821 and related requests for EADs online or by mail. When filing a TPS application, applicants can also request an EAD by submitting a completed Form I–765, Request for Employment Authorization, with their Form I–821.

Online filing: Forms I–821 and I–765 are available for concurrent filing online.[69] To file these forms online, you must first create a USCIS online account.[70]

Mail filing: Mail your application for TPS to the proper address in Table 1.

Table 1—Mailing Addresses

Mail your completed Form I–821, Application for Temporary Protected Status; Form I–765, Application for Employment Authorization, if applicable; Form I–912, Request for Fee Waiver (if applicable); and supporting documentation to the proper address in Table 1.

TABLE 1—MAILING ADDRESSES

If . . .	Mail to . . .
You live in the following states: Florida or New York, and you are using the U.S. Postal Service (USPS).	USCIS, Attn: TPS Haiti, P.O. Box 660167, Dallas, TX 75266–0167.
You live in the following states: Florida or New York, and you are using FedEx, UPS, or DHL.	USCIS, Attn: TPS Haiti (Box 660167), 2501 S State Highway, 121 Business, Suite 400, Lewisville, TX 75067–8003.
You live in any other state, and you are using the U.S. Postal Service (USPS).	USCIS, Attn: TPS Haiti, P.O. Box 24047, Phoenix, AZ 85074–4047.
You live in any other state, and you are using FedEx, UPS, or DHL	USCIS Attn: TPS Haiti (Box 24047), 1820 E Skyharbor Circle S, Suite 100, Phoenix, AZ 85034–4850.

If you were granted TPS by an immigration judge (IJ) or the Board of Immigration Appeals (BIA) and you wish to request an EAD, please mail your Form I–765 application to the appropriate mailing address in Table 1. When you are requesting an EAD based on an IJ/BIA grant of TPS, please include a copy of the IJ or BIA order granting you TPS with your application. This will help us verify your grant of TPS and process your application.

Supporting Documents

The filing instructions on the Form I–821 list all the documents needed to establish eligibility for TPS. You may also find information on the acceptable documentation and other requirements for applying (that is, registering) for TPS on the USCIS website at *https://www.uscis.gov/tps* under ''Haiti.''

Travel

TPS beneficiaries may also apply for and be granted travel authorization as a matter of discretion. You must file for travel authorization if you wish to travel outside of the United States. If granted, travel authorization gives you permission to leave the United States and return during a specific period. To request travel authorization, you must file Form I–131, Application for Travel Document, available at *https://www.uscis.gov/i-131.* You may file Form I–131 together with your Form I–821 or separately. When filing the Form I–131, you must:

- Select Item Number 1.d. in Part 2 on the Form I–131; and
- Submit the fee for the Form I–131, or request a fee waiver, which you may submit on Form I–912, Request for Fee Waiver.

If you are filing Form I–131 together with Form I–821, send your forms to the address listed in Table 1. If you are filing Form I–131 separately based on a pending or approved Form I–821, send your form to the address listed in Table 2 and include a copy of Form I–797 for the approved or pending Form I–821.

TABLE 2—MAILING ADDRESSES

If you are . . .	Mail to . . .
Filing Form I–131 together with a Form I–821, Application for Temporary Protected Status.	The address listed for on the TPS page for your country.

[69] Find information about online filing at ''Forms Available to File Online,'' *https://www.uscis.gov/file-online/forms-available-to-file-online.*

[70] *https://myaccount.uscis.gov/users/sign_up.*

TABLE 2—MAILING ADDRESSES—Continued

If you are . . .	Mail to . . .
Filing Form I–131 based on a pending or approved Form I–821, and you are using the U.S. Postal Service (USPS): You must include a copy of the receipt notice (Form I–797C) showing we accepted or approved your Form I–821.	USCIS, Attn: I–131 TPS, P.O. Box 660167, Dallas, TX 75266–0867.
Filing Form I–131 based on a pending or approved Form I–821, and you are using FedEx, UPS, or DHL: You must include a copy of the receipt notice (Form I–797C) showing we accepted or approved your Form I–821.	USCIS, Attn: I–131 TPS, 2501 S State Hwy., 121 Business, Ste. 400, Lewisville, TX 75067.

Biometric Services Fee for TPS

Biometrics (such as fingerprints) are required for all applicants 14 years of age and older. Those applicants must submit a biometric services fee. As previously stated, if you are unable to pay the biometric services fee, you may request a fee waiver, which you may submit on Form I–912, Request for Fee Waiver. For more information on the application forms and fees for TPS, please visit the USCIS TPS web page at *https://www.uscis.gov/tps.* If necessary, you may be required to visit an Application Support Center to have your biometrics captured. For additional information on the USCIS biometric screening process, please see the USCIS Customer Profile Management Service Privacy Impact Assessment, available at *https://www.dhs.gov/publication/dhsuscispia-060-customer-profile-management-service-cpms.*

General Employment-Related Information for TPS Applicants and Their Employers

How can I obtain information on the status of my TPS application and EAD request?

To get case status information about your TPS application, as well as the status of your TPS-based EAD request, you can check Case Status Online at *https://www.uscis.gov,* or visit the USCIS Contact Center at *https://www.uscis.gov/contactcenter.* If your Form I–765 has been pending for more than 90 days, and you still need assistance, you may ask a question about your case online at *https://egov.uscis.gov/e-request/Intro.do* or call the USCIS Contact Center at 800–375–5283 (TTY 800–767–1833).

Am I eligible to receive an automatic extension of my current EAD through February 3, 2024, using this **Federal Register** notice?

Yes. Regardless of your country of birth, provided that you currently have a Haiti TPS-based EAD that has the notation A–12 or C–19 under Category and a ''Card Expires'' date of February 3, 2023, this **Federal Register** notice automatically extends your EAD through February 3, 2024. Although this **Federal Register** notice automatically extends your EAD through February 3, 2024, you must re-register timely for TPS in accordance with the procedures described in this **Federal Register** notice to maintain your TPS and employment authorization.

Note: The validity dates of certain EADs with facial expiration dates before February 3, 2023 for TPS beneficiaries who are covered by the *Ramos* injunction continue in accordance with 86 FR 50725 (Sept. 10, 2021) and may be continued by a superseding litigation-related notice.

When I am hired, what documentation may I show to my employer as evidence of identity and employment authorization when completing Form I–9?

You can find the Lists of Acceptable Documents on Form I–9, Employment Eligibility Verification, as well as the Acceptable Documents web page at *https://www.uscis.gov/i-9-central/acceptable-documents.* Employers must complete Form I–9 to verify the identity and employment authorization of all new employees. Within three days of hire, employees must present acceptable documents to their employers as evidence of identity and employment authorization to satisfy Form I–9 requirements.

You may present any document from List A (which provides evidence of both identity and employment authorization) or one document from List B (which provides evidence of your identity) together with one document from List C (which provides evidence of employment authorization), or you may present an acceptable receipt as described in the Form I–9 Instructions. Employers may not reject a document based on a future expiration date. You can find additional information about Form I–9 on the I–9 Central web page at *https://www.uscis.gov/I-9Central.* An EAD is an acceptable document under List A. See the section ''How do my employer and I complete Form I–9 using my automatically extended EAD for a new job?'' of this **Federal Register** notice for further information. If your EAD states A–12 or C–19 under Category and has a ''Card Expires'' date of February 3, 2023, it has been extended automatically by virtue of this **Federal Register** notice and you may choose to present your EAD to your employer as proof of identity and employment eligibility for Form I–9 through February 3, 2024, unless your TPS has been withdrawn or your request for TPS has been denied. Your country of birth notated on the EAD does not have to reflect the TPS designated country of Haiti for you to be eligible for this extension.

What documentation may I present to my employer for Form I–9 if I am already employed but my current TPS-related EAD is set to expire?

Even though we have automatically extended your EAD, your employer is required by law to ask you about your continued employment authorization. Your employer may need to re-inspect your automatically extended EAD to check the ''Card Expires'' date and Category code if your employer did not keep a copy of your EAD when you initially presented it. Once your employer has reviewed the ''Card Expires'' date and Category code, your employer should update the EAD expiration date in Section 2 of Form I–9. See the section ''What updates should my current employer make to Form I–9 if my EAD has been automatically extended?'' of this **Federal Register** notice for further information. You may show this **Federal Register** notice to your employer to explain what to do for Form I–9 and to show that USCIS has automatically extended your EAD through February 3, 2024, but you are not required to do so. The last day of the automatic EAD extension is February 3, 2024. Before you start work on February 4, 2024, your employer is required by law to reverify your employment authorization on Form I–9. By that time, you must present any document from List A or any document from List C on Form I–9 Lists of Acceptable Documents, or an acceptable List A or List C receipt described in the Form I–9 instructions to reverify employment authorization.

Your employer may not specify which List A or List C document you must present and cannot reject an acceptable receipt.

If I have an EAD based on another immigration status, can I obtain a new TPS-based EAD?

Yes, if you are eligible for TPS, you can obtain a new TPS-based EAD, regardless of whether you have an EAD or work authorization based on another immigration status. If you want to obtain a new TPS-based EAD valid through August 3, 2024, then you must file Form I–765, Application for Employment Authorization, and pay the associated fee (unless USCIS grants your fee waiver request).

Can my employer require that I provide any other documentation such as evidence of my status or proof of my Haitian citizenship or a Form I–797C showing that I registered for TPS for Form I–9 completion?

No. When completing Form I–9, employers must accept any documentation you choose to present from the Form I–9 Lists of Acceptable Documents that reasonably appears to be genuine and that relates to you, or an acceptable List A, List B, or List C receipt. Employers may not request proof of Haitian citizenship or proof of registration for TPS when completing Form I–9 for new hires or reverifying the employment authorization of current employees. If you present an EAD that USCIS has automatically extended, employers should accept it as a valid List A document so long as the EAD reasonably appears to be genuine and to relate to you. Refer to the ''Note to Employees'' section of this **Federal Register** notice for important information about your rights if your employer rejects lawful documentation, requires additional documentation, or otherwise discriminates against you based on your citizenship or immigration status, or your national origin.

How do my employer and I complete Form I–9 using my automatically extended EAD for a new job?

When using an automatically extended EAD to complete Form I–9 for a new job before February 3, 2024:

1. For Section 1, you should:

a. Check ''An alien authorized to work until'' and enter February 3, 2024, as the ''expiration date''; and

b. Enter your USCIS number or A-Number where indicated. (Your EAD or other document from DHS will have your USCIS number or A-Number printed on it; the USCIS number is the same as your A-Number without the A prefix.)

2. For Section 2, employers should:

a. Determine if the EAD is auto-extended by ensuring it is in category A–12 or C–19 and has a ''Card Expires'' date of February 3, 2023;

b. Write in the document title;

c. Enter the issuing authority;

d. Provide the document number; and

e. Write February 3, 2024, as the expiration date.

Before the start of work on February 4, 2024, employers must reverify the employee's employment authorization on Form I–9.

What updates should my current employer make to Form I–9 if my EAD has been automatically extended?

If you presented a TPS-related EAD that was valid when you first started your job and USCIS has now automatically extended your EAD, your employer may need to re-inspect your current EAD if they do not have a copy of the EAD on file. Your employer should determine if your EAD is automatically extended by ensuring that it contains Category A–12 or C–19 on the front of the card and has a ''Card Expires'' date of February 3, 2023. Your employer may not rely on the country of birth listed on the card to determine whether you are eligible for this extension.

If your employer determines that USCIS has automatically extended your EAD, your employer should update Section 2 of your previously completed Form I–9 as follows:

1. Write EAD EXT and February 3, 2024, as the last day of the automatic extension in the Additional Information field; and

2. Initial and date the correction.

Note: This is not considered a reverification. Employers do not reverify the employee until either the one-year automatic extension has ended, or the employee presents a new document to show continued employment authorization, whichever is sooner. By February 4, 2024, when the employee's automatically extended EAD has expired, employers are required by law to reverify the employee's employment authorization on Form I–9.

If I am an employer enrolled in E-Verify, how do I verify a new employee whose EAD has been automatically extended?

Employers may create a case in E-Verify for a new employee by entering the number from the Document Number field on Form I–9 into the document number field in E-Verify. Employers should enter February 3, 2024, as the expiration date for an EAD that has been extended under this **Federal Register** notice.

If I am an employer enrolled in E-Verify, what do I do when I receive a ''Work Authorization Documents Expiring'' alert for an automatically extended EAD?

E-Verify automated the verification process for TPS-related EADs that are automatically extended. If you have employees who provided a TPS-related EAD when they first started working for you, you will receive a ''Work Authorization Documents Expiring'' case alert when the auto-extension period for this EAD is about to expire. Before this employee starts work on February 4, 2024, you must reverify their employment authorization on Form I–9. Employers may not use E-Verify for reverification.

Note to All Employers

Employers are reminded that the laws requiring proper employment eligibility verification and prohibiting unfair immigration-related employment practices remain in full force. This **Federal Register** notice does not supersede or in any way limit applicable employment verification rules and policy guidance, including those rules setting forth reverification requirements. For general questions about the employment eligibility verification process, employers may call USCIS at 888–464–4218 (TTY 877–875–6028) or email USCIS at *I-9Central@uscis.dhs.gov.* USCIS accepts calls and emails in English and many other languages. For questions about avoiding discrimination during the employment eligibility verification process (Form I–9 and E-Verify), employers may call the U.S. Department of Justice, Civil Rights Division, Immigrant and Employee Rights Section (IER) Employer Hotline at 800–255–8155 (TTY 800–237–2515). IER offers language interpretation in numerous languages. Employers may also email IER at *IER@usdoj.gov.*

Note to Employees

For general questions about the employment eligibility verification process, employees may call USCIS at 888–897–7781 (TTY 877–875–6028) or email USCIS at *I-9Central@uscis.dhs.gov.* USCIS accepts calls in English, Spanish and many other languages. Employees or job applicants may also call the IER Worker Hotline at 800–255–7688 (TTY 800–237–2515) for information regarding employment discrimination based on citizenship, immigration status, or national origin, including discrimination related to Form I–9 and E-Verify. The IER Worker Hotline provides language interpretation in numerous languages.

To comply with the law, employers must accept any document or combination of documents from the Lists of Acceptable Documents if the documentation reasonably appears to be genuine and to relate to the employee, or an acceptable List A, List B, or List C receipt as described in the Form I–9 Instructions. Employers may not require extra or additional documentation beyond what is required for Form I–9 completion. Further, employers participating in E-Verify who receive an E-Verify case result of ''Tentative Nonconfirmation'' (mismatch) must promptly inform employees of the mismatch and give such employees an opportunity to contest the mismatch. A mismatch means that the information entered into E-Verify from Form I–9 differs from records available to DHS.

Employers may not terminate, suspend, delay training, withhold or lower pay, or take any adverse action against an employee because of a mismatch while the case is still pending with E-Verify. A Final Nonconfirmation (FNC) case result is received when E-Verify cannot confirm an employee's employment eligibility. An employer may terminate employment based on a case result of FNC. Work-authorized employees who receive an FNC may call USCIS for assistance at 888–897–7781 (TTY 877–875–6028). For more information about E-Verify-related discrimination or to report an employer for discrimination in the E-Verify process based on citizenship, immigration status, or national origin, contact IER's Worker Hotline at 800–255–7688 (TTY 800–237–2515). Additional information about proper nondiscriminatory Form I–9 and E-Verify procedures is available on the IER website at *https://www.justice.gov/ier* and the USCIS and E-Verify websites at *https://www.uscis.gov/i-9-central* and *https://www.e-verify.gov.*

Note Regarding Federal, State, and Local Government Agencies (Such as Departments of Motor Vehicles)

For Federal purposes, if you present an automatically extended EAD referenced in this **Federal Register** notice, you do not need to show any other document, such as a Form I–797C, Notice of Action, or this **Federal Register** notice, to prove that you qualify for this extension. While Federal Government agencies must follow the guidelines laid out by the Federal Government, State and local government agencies establish their own rules and guidelines when granting certain benefits. Each state may have different laws, requirements, and determinations about what documents you need to provide to prove eligibility for certain benefits. Whether you are applying for a Federal, State, or local government benefit, you may need to provide the government agency with documents that show you are a TPS beneficiary, show you are authorized to work based on TPS or other status, or may be used by DHS to determine if you have TPS or another immigration status. Examples of such documents are:

- Your current EAD with a TPS category code of A–12 or C–19, even if your country of birth noted on the EAD does not reflect the TPS designated country of Haiti;
- Your Form I–94, Arrival/Departure Record;
- Your Form I–797C, Notice of Action, reflecting approval of your Form I–765; or
- Form I–797 or Form I–797C, Notice of Action, reflecting approval or receipt of a past or current Form I–821.

Check with the government agency requesting documentation regarding which document(s) the agency will accept. Some state and local government agencies use the SAVE program to confirm the current immigration status of applicants for public benefits.

While SAVE can verify that an individual has TPS, each state and local government agency's procedures govern whether they will accept an unexpired EAD, Form I–797, Form I–797C, or Form I–94, Arrival/Departure Record. If an agency accepts the type of TPS-related document you present, such as an EAD, the agency should accept your automatically extended EAD, regardless of the country of birth listed on the EAD. It may assist the agency if you:

a. Give the agency a copy of the relevant **Federal Register** notice listing the TPS-related document, including any applicable auto-extension of the document, in addition to presenting your recent TPS-related document with your A-Number, or USCIS number;

b. Explain that SAVE will be able to verify the continuation of your TPS using this information; and

c. Ask the agency to initiate a SAVE query with your information and follow through with additional verification steps, if necessary, to get a final SAVE response verifying your TPS.

You can also ask the agency to look for SAVE notices or contact SAVE if they have any questions about your immigration status or automatic extension of TPS-related documentation. In most cases, SAVE provides an automated electronic response to benefit-granting agencies within seconds, but occasionally verification can be delayed. You can check the status of your SAVE verification by using CaseCheck at *https://save.uscis.gov/casecheck.* CaseCheck is a free service that lets you follow the progress of your SAVE verification case using your date of birth and one immigration identifier number (A-Number, USCIS number, or Form I–94 number) or Verification Case Number. If an agency has denied your application based solely or in part on a SAVE response, the agency must offer you the opportunity to appeal the decision in accordance with the agency's procedures. If the agency has received and acted on or will act on a SAVE verification and you do not believe the SAVE response is correct, the SAVE website, *www.uscis.gov/save,* has detailed information on how to make corrections or update your immigration record, make an appointment, or submit a written request to correct records.

[FR Doc. 2023–01586 Filed 1–25–23; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6374–N–01]

Appointments to the Housing Counseling Federal Advisory Committee; Solicitation of Nominations

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (HUD).

ACTION: Notice.

SUMMARY: The Department of Housing and Urban Development (HUD) established the HCFAC on April 14, 2015. The HCFAC will consist of 12 members, equally representing the mortgage industry and real estate industry, including consumers, and HUD-approved housing counseling agencies. This notice invites nominations for an appointment to fill one vacancy on the HCFAC to represent the mortgage industry.

DATES: All nominations must be received no later than February 27, 2023.

ADDRESSES: Nominations must be in writing using a completed HUD–90005 (Application for Membership on the HCFAC, OMB Approval Number: 2502–0606) and submitted via email to *HCFAC.application@hud.gov.* Individuals who do not have internet access may submit nominations to the Office of the Deputy Assistant Secretary for Housing Counseling, U.S. Department of Housing and Urban

Development, 451 7th Street SW, Room 9224, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Virginia F. Holman, Housing Program Technical Specialist, U.S. Department of Housing and Urban Development, Office of Housing Counseling, Office of Outreach and Capacity Building, telephone number 540–894–7790 (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 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.* Individuals with questions may also email *HCFAC.application@hud.gov and in the subject line write* ''*HCFAC application question.*''

SUPPLEMENTARY INFORMATION:

I. Background and Authority

The HCFAC is congressionally mandated to provide advice to the Office of Housing Counseling (OHC) (42 U.S.C. 3533(g)(4)). The HCFAC provides the OHC valuable advice regarding its mission to provide individuals and families with the knowledge they need to obtain, sustain, and improve their housing through a strong national network of HUD-approved housing counseling agencies and HUD-certified counselors. The HCFAC, however, does not have any role in reviewing or awarding of OHC housing counseling grants and procurement contracts. The HCFAC is subject to the requirements of the Federal Advisory Committee Act (Pub. L. 92–463, codified at 5 U.S.C. App. 1–16), and Presidential Memorandum ''Final Guidance on Appointments of Lobbyists to Federal Boards and Commissions,'' dated June 18, 2010, along with any relevant guidance published in the **Federal Register** or otherwise issued by the Office of Management and Budget (OMB).[1]

The HCFAC shall consist of not more than 12 individuals appointed by the Secretary. The membership will equally represent the mortgage industry, real estate industry, consumers, and HUD-approved housing counseling agencies. Each member shall be appointed in his or her individual capacity for a term of 3 years.

II. Nominations for the Housing Counseling Federal Advisory Committee

HUD is seeking nominations for membership on the HCFAC. Nominees shall have experience representative of the mortgage industry. Nominations may be made by agency officials, members of Congress, the general public, professional organizations, and self-nominations. Nominees must be U.S. citizens and cannot be U.S. Government employees.

All appointed nominees will be serving on the HCFAC in their individual capacity and not in a representative capacity, therefore, no Federally-registered lobbyists may serve on the HCFAC.[2] Individual capacity, as clarified by OMB, refers to individuals who are appointed to committees to exercise their own individual best judgment on behalf of the government, such as when they are designated as Special Government Employees as defined in 18 U.S.C. 202. Nominations to the HCFAC must be submitted using HUD–90005 which is available on the Office of Housing Counseling's Federal Advisory Committee web pages at: *https://www.hud.gov/program_offices/housing/sfh/hcc* or *https://www.hudexchange.info/programs/housing-counseling/federal-advisory-committee/.* Each nominee will be required to provide all the information on a signed HUD–90005, including a resume. Nominations submitted under this **Federal Register** Notice shall remain valid for two (2) years after the close of this nomination period. HUD reserves the right to solicit new nominations, at any time, to fill HCFAC vacancies.

Nominations should be submitted via email to *HCFAC.application@hud.gov.* Individuals that do not have internet access may submit nominations to the Office of the Deputy Assistant Secretary for Housing Counseling, U.S. Department of Housing and Urban Development, 451 7th Street SW, Room 9224, Washington, DC 20410. Those who submitted applications previously, and those who have been appointed previously, must reapply if they wish to be considered for an appointment.

All Nominations must be received no later than February 27, 2023.

HCFAC members will be required to adhere to the conflict of interest rules applicable to Special Government Employees as such employees are defined in 18 U.S.C. 202(a). The rules include relevant provisions in 18 U.S.C. related to criminal activity, Standards of Ethical Conduct for Employees of the Executive Branch (5 CFR part 2635) and Executive Order 12674 (as modified by Executive Order 12731). Therefore, applicants will be required to submit to pre-appointment screenings relating to identity of interest and financial interests that HUD might require. If selected, HCFAC members will also be asked to complete OGE Form 450 (Confidential Financial Disclosure Report).

Members of the HCFAC shall serve without pay but shall receive travel expenses including per diem in lieu of subsistence as authorized by 5 U.S.C. 5703. Regular attendance is essential to the effective operation of the HCFAC.

Please note this Notice is not intended to be the exclusive method by which HUD will solicit nominations and expressions of interest to identify qualified candidates; however, all nominees for membership on the HCFAC will be subject to the same application process and evaluation criteria.

III. Selection and Meetings

Member selections will be made by the Secretary and will be based on the Nominee's qualifications to contribute to the accomplishment of the HCFAC's objectives. Membership on the Committee is personal to the appointee and committee members serve at the discretion of the Secretary.

The estimated number of in-person meetings anticipated within a fiscal year is two (2) in Washington, DC or elsewhere in the United States. Additional meetings may be held as needed to render advice to the Deputy Assistant Secretary for the Office of Housing Counseling. The meetings may use electronic communication technologies for attendance.

All meetings will be announced by notice in the **Federal Register**. Announcements of the meetings may be made using other methods as well.

Julia Gordon,

Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 2023–01486 Filed 1–25–23; 8:45 am]

BILLING CODE P

[1] See *https://www.whitehouse.gov/the:press-office/presidential-memorandum-lobbyists-agency-boards-and-commissions* (''Lobbyist on Agency Boards and Commissions''); see also 76 FR 61756 (''Final Guidance on Appointments of Lobbyists to Federal Boards and Commissions''); and 79 FR 47482 (''Revised Guidance on Appointment of Lobbyists to Federal Advisory Committees, Boards, and Commissions'').

[2] See 79 FR 4782 (''Revised Guidance on Appointment of Lobbyists to Federal Advisory Committees, Boards, and Commissions'') (clarifying that federally registered lobbyists may not serve on advisory committee, board, or Commission in an ''individual capacity'').

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7070–N–07]

30-Day Notice of Proposed Information Collection: Comment Request New Construction Subterranean Termite Protection for New Homes, OMB Control No.: 2502–0525

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 27, 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. 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, REE, Department of Housing and Urban Development, 451 7th Street SW, Room 8210, 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.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35, as amended). 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 August 31, 2022 at 87 FR 53483.

A. Overview of Information Collection

Title of Information Collection: New Construction Subterranean Termite Protection for New Homes.

OMB Approval Number: 2502–0525.

Form Number: Form HUD–NPMA–99–A and Form HUD–NPMA–99–B.

Type of Request: Extension of a currently approved collection.

Description of the need for the information and proposed use: HUD regulations at 24 CFR 200.926d(b)(3) require that the sites for HUD insured structures must be free of termite hazards. The HUD–NPMA–99–A requires the builder to certify that all required treatment for termites was performed by an authorized pest control company with the builder's guarantee of the treated area against infestation for one year. The form HUD–NPMA–99–B requires a licensed pest control company to provide to the builder a record of specific treatment information for the prevention of termites. When applicable, the Form HUD–NPMA–99–B must accompany the Form HUD–NPMA–99–A. If the requested data are not collected, new home purchasers and HUD are subject to the risk of insuring a mortgage loan for a home that is infested by termites.

Agency form numbers: Form HUD–NPMA–99–A and Form HUD–NPMA–99–B.

Respondents: Business.

Estimated Number of Respondents: 93,630.

Estimated Number of Responses: 187,260.

Frequency of Response: On Occasion.

Average Hours per Response: 0.083.

Total Estimated Burdens (Hours): 31,178.8.

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 comments 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. 2023–01569 Filed 1–25–23; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7069–N–01]

60-Day Notice of Proposed Information Collection: Ginnie Mae Digital Collateral Program, OMB Control No.: 2503–0034

AGENCY: Government National Mortgage Association (Ginnie Mae), 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 27, 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 60 days of publication of this notice to *OIRA_submission@omb.eop.gov, www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 60-day Review—Open for Public Comments'' or by using the search function, and Interested persons are also invited to submit comments regarding this proposal and comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Anna Guido, Clearance Officer, REE, Department of

Housing and Urban Development, 451 7th Street SW, Room 8210, Washington, DC 20410–5000; telephone 202–402–5535 (this is not a toll-free number) or email at *Anna.P.Guido@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: Anna Guido Department of Housing and Urban Development, 451 7th Street SW, Room 8210, Washington, DC 20410; telephone 202–402–5535, (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 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*.

Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Ginnie Mae Digital Collateral Program.

OMB Approval Number: 2503–0034.

Type of Request: Revision of a currently approved collection.

Form Number: HUD–11701A; HUD–11701B; HUD–11708SI.

Description of the need for the information and proposed use:

Adapting to the needs of the industry, Ginnie Mae is permittinh the securitization of mortgage loans where the note is an eligible eNote. The forms in this request are new forms that are necessary due to the unique requirements of managing eNotes and eMortgages. This collection permits Ginnie Mae to verify: (1) that eIssuers and eMortgages have the specialized knowledge and experience to participate; (2) that eIssuers and eCustodians have the technological capability to service eMortgages and safeguard eMortgage documents; (3) the name and location of the entities responsible for the various Ginnie Mae accounts and eMortgage documents, and (4) those entities that are responsible for servicing the eMortgages that back the Ginnie Mae pools. Ginnie Mae needs this information to mitigate risk and evaluate its business operations, procedures and programs, and assist lenders in processing borrower requests more efficiently. Ginnie Mae also requires the collection of information to ensure that there are no deficiencies, which could affect the pass through of securities to its investors.

Based upon feedback received about the eIssuer Application form (HUD–11701A), we have revised the instructions. The only revision is to the form's instructions which now address subservicing by the eIssuer Applicant.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
eIssuer Application (HUD–11701A)	20	1	20	.5	10	$32	$320
eCustodian Application (HUD–11701B)	5	1	5	.5	2.5	32	80
Request for Release of Secured Party (HUD–11808SI).	Est. Volume 300	1	300	.05	15	32	480
Total	Varies	1	325	Varies	27.5	32	880

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

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

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35.

Sam I. Valverde,

Executive Vice President & Chief Operating Officer.

[FR Doc. 2023–01495 Filed 1–25–23; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[XXXD5198NI DS61100000 DNINR0000.000000 DX61104]

Notice of Call for Nominations for the Exxon Valdez Oil Spill Public Advisory Committee

AGENCY: Office of the Secretary, Interior.

ACTION: Call for nominations notice.

SUMMARY: The *Exxon Valdez* Oil Spill Trustee Council (Trustee Council) is soliciting nominations for the Public Advisory Committee (Committee). This Committee advises the Trustee Council on decisions related to the planning, evaluation, funds allocation, and conduct of injury assessment and restoration activities related to the T/V *Exxon Valdez* oil spill of March 1989.

DATES: All nominations must be received by March 13, 2023.

ADDRESSES: A complete nomination package should be submitted by hard copy or via email to Shiway Wang, Executive Director, *Exxon Valdez* Oil Spill Trustee Council, 4230 University Drive, Suite 220, Anchorage, Alaska 99508–4650, or at *shiway.wang@alaska.gov.* Also please copy Joy Maglaqui, Executive Assistant, on any email correspondence at *joy.maglaqui@alaska.gov.*

FOR FURTHER INFORMATION CONTACT: Grace Cochon, Department of the Interior, Office of Environmental Policy and Compliance, telephone number: (907) 786–3620; email: *grace_cochon@ios.doi.gov.*

SUPPLEMENTARY INFORMATION: The Committee was created pursuant to Paragraph V.A.4 of the Memorandum of Agreement and Consent Decree entered into by the United States of America and the State of Alaska on August 27, 1991, and approved by the United States District Court for the District of Alaska in settlement of *United States of America* v. *State of Alaska,* Civil Action No. A91–081 CV. The Committee advises the Trustee Council on matters relating to decisions on injury assessment, restoration activities, or other use of natural resource damage recoveries obtained by the government. The Trustee Council consists of representatives of the U.S. Department of the Interior, U.S. Department of Agriculture, National Oceanic and Atmospheric Administration, Alaska Department of Fish and Game, Alaska Department of Environmental Conservation, and Alaska Department of Law.

The Committee consists of 10 members to reflect balanced representation from each of the following principal interests: aquaculture/mariculture, commercial tourism, conservation/environmental, recreation, subsistence use, commercial fishing, native landownership, sport hunting/fishing, science/technology, and public-at-large.

We are soliciting nominations for three positions that represent sport hunting/fishing, conservation/environmental, and science/technology interests. The Committee members will be selected and appointed by the Secretary of the Interior to serve a four-year term.

Nominations for membership may be submitted by any source. Nominations should include a résumé providing an adequate description of the nominee's qualifications, including information that would enable the Department of the Interior to make an informed decision regarding meeting the membership requirements of the Committee and permit the Department of the Interior to contact a potential member.

Authority: 5 U.S.C. Appendix 2.

Lisa M. Fox,

Regional Environmental Officer, Office of Environmental Policy and Compliance.

[FR Doc. 2023–01510 Filed 1–25–23; 8:45 am]

BILLING CODE 4334–63–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–DTS#–SG100008654; 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 January 14, 2023, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted electronically by February 10, 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 January 14, 2023. 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.

MARYLAND

Baltimore Independent City

Ambassador Theater, 4604 Liberty Heights Ave., Baltimore, SG100008654

Howard County

Granite Park, 7608 Murray Hill Rd., Columbia vicinity, SG100008653

MISSISSIPPI

Pontotoc County

Mayfield, M.B., House, 423 Main St., Ecru, SG100008638

NEW YORK

Rensselaer County

Central Lansingburgh Historic District, 1st Ave., 110th and 111th Sts., east alleys of 5th and 6th Aves., 117th and 120th Sts., east and west alleys of 2nd Ave., Troy, SG100008651

OREGON

Linn County

Riverside Community Hall, 35293 Riverside Dr. SW, Albany, SG100008640

PENNSYLVANIA

Bucks County

Lehigh Valley Transit Station, 513 West Walnut St., Perkasie, SG100008645

Philadelphia County

Blumenthal Brothers Chocolate Factory, 2201–21 Margaret St., Philadelphia, SG100008646

Zion Baptist Church and Educational Annex, 3600 and 3601–07 North Broad St., Philadelphia, SG100008647

VIRGINIA

Lexington Independent City

Boude-Deaver House, 406 South Main St., Lexington, SG100008650

Loudoun County

Union Street School, 20 Union St., Leesburg, SG100008649

Roanoke Independent City

Colony House Motor Lodge, 3560 Franklin Rd., Roanoke, SG100008648

Additional documentation has been received for the following resources:

ALABAMA

Mobile County

Automobile Alley Historic District (Additional Documentation), 156–157 North Cedar, 108 North Dearborn, 100–101 North Franklin, 156 North Hamilton, 163 North Lawrence, and 453–701 St. Anthony Sts., Mobile, AD16000400

ARIZONA

Pima County

Armory Park Historic Residential District (Additional Documentation), 803–807 South 4th Ave. (rear), Tucson, AD76000378

NEW YORK

Hamilton County

Blue Mountain House Annex (Additional Documentation), NY 30, Blue Mountain, AD77000941

PENNSYLVANIA

Philadelphia County

First Unitarian Church (Additional Documentation), 2121 Chestnut St., Philadelphia, AD71000724

Authority: Section 60.13 of 36 CFR part 60.

Dated: January 19, 2023.

Sherry A. Frear,

Chief, National Register of Historic Places/National Historic Landmarks Program.

[FR Doc. 2023–01591 Filed 1–25–23; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–NCR–CHOH–35027; PPNCCHOHS0–PPMPSPD1Z.YM0000]

Public Meeting of the Chesapeake and Ohio Canal National Historical Park; Commission Notice

AGENCY: National Park Service, Interior.

ACTION: Meeting notice.

SUMMARY: In accordance with the Federal Advisory Committee Act of 1972, the National Park Service (NPS) is hereby giving notice that the Chesapeake and Ohio Canal National Historical Park Commission (Commission) will meet as indicated below.

DATES: The in-person meeting will take place on Thursday, March 2, 2023. The meeting will begin at 9:00 a.m. until 2:30 p.m. (EASTERN), with an hour-long lunch break.

ADDRESSES: The meeting will be held in the public conference room at park headquarters, Chesapeake and Ohio Canal National Historical Park, 142 W Potomac Street, Williamsport, MD 21795. Individuals that prefer to participate virtually must contact the person listed in the (see **FOR FURTHER INFORMATION CONTACT**) section at least five (5) business days prior to the meeting. The format and/or location of the meeting are subject to change depending on local health restrictions or mandates. For updated information please see *https://www.nps.gov/choh/learn/news/federal-advisory-commission.htm* or email *choh_information@nps.gov*.

FOR FURTHER INFORMATION CONTACT: Tina Cappetta, Superintendent, Chesapeake and Ohio Canal National Historical Park, 142 W Potomac Street, Williamsport, MD 21795, or via telephone at (301) 714–2201, or by email *tina_cappetta@nps.gov*.

SUPPLEMENTARY INFORMATION: The Commission was established on January 8, 1971, under 16 U.S.C. 410y–4, as amended, and is regulated by the Federal Advisory Committee Act. Appendix D, Division B, Title I, section 134 of Public Law 106–554, December 21, 2000, and section 1 of Public Law 113–178, September 26, 2014, respectively.

Purpose of the Meeting: The agenda will include discussion of park updates and outline goals for Fiscal Year 2023/2024 and beyond. The final agenda will be posted on the park's website at *https://www.nps.gov/choh/learn/news/federal-advisory-commission.htm*. The website includes meeting minutes from all prior meetings.

Interested persons may present, either orally or through written comments, information for the Commission to consider during the public meeting. Written comments will also be accepted prior to, during, or after the meeting.

Members of the public may submit written comments by mailing them to Mackensie Henn, Assistant to the Superintendent, Chesapeake and Ohio Canal National Historical Park, 142 W Potomac Street, Williamsport, MD 21795, (240) 520–3135, or by email *choh_information@nps.gov*. Comments sent via email should include Comments for March 2023 Advisory Commission Meeting in the subject line. All written comments will be provided to members of the Commission.

Depending on the number of people wishing to comment and the time available, the amount of time for oral comments may be limited. All comments will be made part of the public record and will be electronically distributed to all Commission members. Detailed minutes of the meeting will be available for public inspection within 90 days of the meeting.

Meeting Accessibility/Special Accommodations: The meeting is open to the public. Please make requests in advance for sign language interpreter services, assistive listening devices, or other reasonable accommodations. We ask that you contact the person listed in the (see **FURTHER INFORMATION CONTACT**) section of this notice at least seven (7) business days prior to the meeting to give the Department of the Interior sufficient time to process your request. All reasonable accommodation requests are managed on a case-by-case basis.

Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

Public Disclosure of Comments: Before including your address, phone number, email address, or other personal identifying information in your written comments, you should be aware that your entire comment including your personal identifying information will be made publicly available. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 5 U.S.C. appendix 2.

Alma Ripps,

Chief, Office of Policy.

[FR Doc. 2023–01497 Filed 1–25–23; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–PWRO–TUSK–35028; PPPWTUSK00, PPMPSPD1Z.YM0000]

Tule Springs Fossil Beds National Monument Advisory Council Notice of Public Meeting

AGENCY: National Park Service, Interior.

ACTION: Meeting notice.

SUMMARY: In accordance with the Federal Advisory Committee Act, the National Park Service is hereby giving notice that the Tule Springs Fossil Beds National Monument Advisory Council (Council) will meet as indicated below.

DATES: The meeting will be held on Wednesday, February 15, 2023, at 5:00 p.m. until 7:00 p.m. (PACIFIC).

ADDRESSES: The meeting will be held in person at the State Park Nevada—Southern Nevada Office at 4747 Vegas Dr., Las Vegas, Nevada 89108. Individuals that prefer to participate virtually must contact the person listed in the (**FOR FURTHER INFORMATION CONTACT**) section at least five (5) business days prior to the meeting. The format and/or location of the meeting are subject to change depending on local health restrictions or mandates.

Written comments can be submitted by mail to Derek Carter, Superintendent, Tule Springs Fossil Beds National Monument, 601 Nevada Way, Boulder

City, NV 89005, or by email *derek_carter@nps.gov.*

FOR FURTHER INFORMATION CONTACT: Further information concerning the meeting may be obtained from Mike Theune, Acting Public Affairs Officer, Lake Mead National Recreation Area, 601 Nevada Way, Boulder City, Nevada 89005, via telephone at (702) 293–8691, or email at *mike_theune@nps.gov.* Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: The Council was established pursuant to section 3092(a)(6) of Public Law 113–291 and in accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. Appendix 1–16). The purpose of the Council is to advise the Secretary of the Interior with respect to the preparation and implementation of the management plan.

Purpose of the Meeting: The Council agenda will include:

1. Minutes Review
2. Superintendent Updates will include: General Management Plan—Update of Progress and Visitor Use Management Elements
3. Resource Management Updates
4. Old Business
5. New Business: Election of new Chairperson for the Council
6. Public Comments

The meeting is open to the public. Interested persons may make oral or written presentations to the Council during the business meeting or file written statements. Requests to address the Council should be made to the Superintendent prior to the meeting. Members of the public may submit written comments by mailing them to Derek Carter, Superintendent, Tule Springs Fossil Beds National Monument, 601 Nevada Way, Boulder City, NV 89005, or by email *derek_carter@nps.gov.* All written comments will be provided to members of the Council. Due to time constraints during the meeting, the Council is not able to read written public comments submitted into the record. Depending on the number of people who wish to speak and the time available, the time for individual comments may be limited.

Meeting Accessibility/Special Accommodations: The meeting is open to the public. Please make requests in advance for sign language interpreter services, assistive listening devices, or other reasonable accommodations. We ask that you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice at least seven (7) business days prior to the meeting to give the Department of the Interior sufficient time to process your request. All reasonable accommodation requests are managed on a case-by-case basis.

Public Disclosure of Comments: Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 5 U.S.C. appendix 2.

Alma Ripps,

Chief, Office of Policy.

[FR Doc. 2023–01498 Filed 1–25–23; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

Office of Natural Resources Revenue

[Docket No. ONRR–2011–0006; DS63644000 DRT000000.CH7000 234D1113RT OMB Control Number 1012–0009]

Agency Information Collection Activities: OCS Net Profit Share Payment

AGENCY: Office of Natural Resources Revenue (''ONRR''), Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (''PRA''), ONRR is proposing to renew an information collection. Through this Information Collection Request (''ICR''), ONRR seeks renewed authority to collect information necessary to determine net profit share payments due the United States pursuant to Outer Continental Shelf (''OCS'') oil and gas leases.

DATES: You must submit your written comments on or before March 27, 2023.

ADDRESSES: All comment submissions must (1) reference ''OMB Control Number 1012–0009'' in the subject line; (2) be sent to ONRR before the close of the comment period listed under **DATES**; and (3) be sent using the following method:

- *Electronically via the Federal eRulemaking Portal:* Please visit *https://www.regulations.gov.* In the Search Box, enter the Docket ID Number for this ICR renewal (''ONRR–2011–0006'') and click ''search'' to view the publications associated with the docket folder. Locate the document with an open comment period and click the ''Comment Now!'' button. Follow the prompts to submit your comment prior to the close of the comment period.

Docket: To access the docket folder to view the ICR **Federal Register** publications, go to *https://www.regulations.gov* and search ''ONRR–2011–0006'' to view renewal notices recently published in the **Federal Register**, publications associated with prior renewals, and applicable public comments received for this ICR. ONRR will make the comments submitted in response to this notice available for public viewing at *https://www.regulations.gov.*

OMB ICR Data: OMB also maintains information on ICR renewals and approvals. You may access this information at *https://www.reginfo.gov/public/do/PRASearch.* Please use the following instructions: Under the ''OMB Control Number'' heading enter ''1012–0009'' and click the ''Search'' button located at the bottom of the page. To view the ICR renewal or OMB approval status, click on the latest entry (based on the most recent date). On the ''View ICR—OIRA Conclusion'' page, check the box next to ''All'' to display all available ICR information provided by OMB.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, please contact Aaron Lindquist, Data Intake, Solutioning, and Coordination, ONRR, by email at *Aaron.Lindquist@onrr.gov* or by telephone at (303) 231–3020. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: Pursuant to the PRA, 44 U.S.C. 3501, *et seq.,* and 5 CFR 1320.5, all information collections, as defined in 5 CFR 1320.3, require approval by OMB. ONRR may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number.

As part of ONRR's continuing effort to reduce paperwork and respondent

burdens, ONRR is inviting the public and other Federal agencies to comment on new, proposed, revised, and continuing collections of information in accordance with the PRA and 5 CFR 1320.8(d)(1). This helps ONRR to assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand ONRR's information collection requirements and provide the requested data in the desired format.

ONRR is especially interested in public comments addressing the following:

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

(2) The accuracy of ONRR's 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) How might the agency 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.

Comments that you submit in response to this notice are a matter of public record. ONRR will include or summarize each comment in its 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 can ask ONRR in your comment to withhold your personal identifying information from public review, ONRR cannot guarantee that it will be able to do so.

(a) Abstract—General Information: The Federal Oil and Gas Royalty Management Act of 1982 (''FOGRMA'') directs the Secretary of the Interior (''Secretary'') to ''establish a comprehensive inspection, collection and fiscal and production accounting and auditing system to provide the capability to accurately determine oil and gas royalties, interest, fines, penalties, fees, deposits, and other payments owed, and to collect and account for such amounts in a timely manner.'' *See* 30 U.S.C. 1711. ONRR performs these and other mineral revenue management responsibilities for the Secretary. *See* U.S. Department of the Interior Departmental Manual, 112 DM 34.1 (Sept. 9, 2020).

Through this ICR, ONRR seeks continuing authority to collect information necessary to perform its delegated mineral revenue management responsibilities for Net Profit Share Leases (''NPSLs''). The NPSLs are OCS leases that provide for the payment to the United States of a percentage of the net profits from oil and gas production. *See* 30 CFR part 1220. The requirement to report the collected information accurately and timely is mandatory.

(b) Information Collections: Title 30 CFR part 1220 requires an NPSL lessee to maintain and provide the following categories of information.

(1) NPSL Capital Accounts and Reports: Sections 1220.010 and 1220.021 require the lessee to establish and maintain a capital account for each NPSL. These sections require the lessee to credit the capital account with all production revenues attributable to the NPSL and any other credits arising from NPSL activities. The sections also require the lessee to debit the account with all allowable direct and allocable joint costs incurred during the term of the lease, appropriate overhead allowances, and allowances for capital recovery.

Section 1220.031(a) requires the lessee to file annual reports with ONRR regarding the costs incurred until production revenues are credited to the capital account. Once production revenues are credited to the account, § 1220.031(b) requires the lessee to file monthly reports with ONRR. That section requires the monthly reports to include the volume and disposition of all oil and gas production saved, removed, or sold, the production revenue, the amount and description of all costs and credits to the NPSL capital account, the balance of the NPSL capital account, the net profit share base and net profit share payment due the United States, and the monthly profit share of the lessee. Section 1220.031(e) requires the lessee to file a final report with ONRR upon cessation of production indicating the remaining balance and costs and credits to the NPSL capital account.

(2) NPSL Inventories: Section 1220.032(a) and (b) require the lessee to take inventories of NPSL equipment, apparatus, and supplies at reasonable intervals not to exceed three years. Section 1220.032(b) requires the lessee to notify BOEM of its intent to take inventory so that BOEM's Director may be represented at the inventory taking. Section 1220.032(d) requires the lessee to reconcile the physical inventory with the NPSL capital account and to make a list of overages and shortages available to the BOEM Director for audit. Section 1220.031(d) requires the lessee to file an inventory report following the inventory taking.

(3) NPSL Records and Audits: Section 1220.030(a) requires an NPSL lessee to establish and maintain certain records related to the NPSL. Section 1220.033(e) authorizes ONRR to inspect these records during normal business hours upon request. Section 1220.033(a) authorizes ONRR to audit accounts of the NPSL lessee or its contractor related to NPSL operations. Where possible, § 1220.033(a) requires ONRR to coordinate its audit with audit efforts of other nonoperators, if any. Section 1220.033(b)(1) requires nonoperators of the NPSL lease to notify ONRR of an audit call so that it may elect to send an auditor with the nonoperator's audit team in lieu of a separate audit call.

Title of Collection: 30 CFR part 1220, OCS Net Profit Share Payment Reporting.

OMB Control Number: 1012–0009.

Form Numbers: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Businesses.

Total Estimated Number of Annual Respondents: 9 lessees.

All nine lessees report monthly because all current NPSLs are in producing status. ONRR estimates that these lessees will file a total of 180 monthly reports annually. ONRR excluded estimates of certain requirements performed in the normal course of business that are considered usual and customary.

Total Estimated Number of Annual Responses: 180.

Total Estimated Number of Annual Burden Hours: 1,584 hours.

Estimated Completion Time per Response: 9 hours.

Respondent's Obligation: Mandatory.

Frequency of Collection: Monthly, annually, and on occasion.

Estimated Annual Non-hour Cost Burden: ONRR has identified no ''non-hour'' cost burden associated with the collection of information.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the PRA (44 U.S.C. 3501, *et seq.*).

Howard Cantor,

Acting Director, Office of Natural Resources Revenue.

[FR Doc. 2023–01577 Filed 1–25–23; 8:45 am]

BILLING CODE 4335–30–P

DEPARTMENT OF JUSTICE

Notice of Opportunity To Comment on Proposed Settlement Under the Oil Pollution Act

Notice is hereby given that the United States of America, on behalf of the Department of the Interior (''DOI'') acting through the U.S. Fish and Wildlife Service, the State of Oregon represented by Oregon Department of Fish and Wildlife (''ODFW''), the Confederated Tribes of Grand Ronde, and the Confederated Tribes of Siletz Indians (''Tribes'') (DOI, ODFW and Tribes collectively, the ''Trustees''), are providing an opportunity for public comment on a proposed Settlement Agreement (''Settlement Agreement'') among the Trustees and settling party Central Petro, Inc. (''Central Petro'').

The Settlement Agreement resolves civil claims under the natural resource damages provision of the Oil Pollution Act of 1990 (''OPA''), 33 U.S.C. 2702 for injury to, impairment of, destruction of, loss of, diminution of value of and/or loss of use of natural resources, including the reasonable costs of assessing the injuries, resulting from the December 15, 2017 discharge of approximately 11,600 gallons of unleaded gasoline from a fuel tanker owned by Central Petro near Idanha Oregon.

The Settlement Agreement resolves these claims by requiring a payment of $567,155.97 for past assessment costs and implementation of natural resource restoration projects to be selected by the Trustees.

This publication of this notice holds opens the period for public comment on the Settlement Agreement. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States et al* v. *Central Petro,* D.J. Ref. No. 90–5–1–1–12594. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the Settlement Agreement may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the Settlement Agreement upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $8.75 (25 cents per page reproduction cost) payable to the United States Treasury.

Kathryn C. Macdonald,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2023–01589 Filed 1–25–23; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Plan Asset Transactions Determined by Independent Qualified Professional Asset Managers Prohibited Transaction Exemption

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Employee Benefits Security Administration (EBSA)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before February 27, 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.

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) if the information will be processed and used in a timely manner; (3) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (4) ways to enhance the quality, utility and clarity of the information collection; and (5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Mara Blumenthal by telephone at 202–693–8538, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: Section 408(a) of the Employee Retirement Income Security Act (ERISA) authorizes this information collection. Prohibited Transaction Class Exemption 84–14 permits a party that is related to an employee benefit plan to engage in transactions involving plan assets if, among other conditions, the assets are managed by a qualified professional asset manager (QPAM) that is independent of the parties in interest. The information collection requirements that are conditions of the exemption include written policies and procedures by a QPAM and audit requirements. An independent auditor uses the written policies and procedures to determine whether the QPAM is in compliance with the written policies and procedures and whether the exemption conditions have been met. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on July 22, 2022 (87 FR 43897).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–EBSA.

Title of Collection: Plan Asset Transactions Determined by Independent Qualified Professional Asset Managers Prohibited Transaction Exemption.

OMB Control Number: 1210–0128.

Affected Public: Private Sector—Businesses or other for-profits.

Total Estimated Number of Respondents: 11,000.

Total Estimated Number of Responses: 11,110.

Total Estimated Annual Time Burden: 264,110 hours.

Total Estimated Annual Other Costs Burden: $110,000,000.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Dated: January 20, 2023.

Mara Blumenthal,

Senior PRA Analyst.

[FR Doc. 2023–01525 Filed 1–25–23; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2010–0021]

Susan Harwood Training Grant Program; Revision of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning the proposal to extend the Office of Management and Budget's (OMB) approval of the information collection requirements specified in the Susan Harwood Training Grant Program.

DATES: Comments must be submitted (postmarked, sent, or received) by March 27, 2023.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov.* Documents in the docket are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the website. All submissions, including copyrighted material, are available for inspection through the OSHA Docket Office. Contact the OSHA Docket Office at (202) 693–2350 (TTY (877) 889–5627) for assistance in locating docket submissions.

Instructions: All submissions must include the agency name and OSHA docket number (OSHA–2010–0021) for the Information Collection Request (ICR). OSHA will place all comments, including any personal information, in the public docket, which may be made available online. Therefore, OSHA cautions interested parties about submitting personal information such as social security numbers and birthdates.

For further information on submitting comments, see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Seleda Perryman or Theda Kenney, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor; telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of the continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, the collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of effort in obtaining information (29 U.S.C. 657).

Section 21 of the Occupational Safety and Health Act of 1970 (the ''OSH Act'') (29 U.S.C. 670) authorizes the Occupational Safety and Health Administration (OSHA) to conduct directly, or through grants and contracts, education, and training courses. These courses must ensure an adequate number of qualified personnel to fulfill the purposes of the Act, provide them with short-term training, inform them of the importance and proper use of safety and health equipment, and train employers and workers to recognize, avoid, and prevent unsafe and unhealthful working conditions.

Under Section 21, the agency awards training grants to nonprofit organizations to provide part of the training. Organizations that receive these grants must submit the Grantee Quarterly Progress Report (GQPR; OSHA 171, Revised 5/14) as required by the Department of Labor under 29 CFR 95.51. This regulation states that grant recipients (grantees) must submit progress reports to the awarding agency at least annually but no more than quarterly. The reports must contain a comparison of actual accomplishments with goals and objectives established for the reporting period and, if appropriate, the program's output.

Therefore, the GQPR allows OSHA to monitor a grantee's performance and to determine if a recipient is using funds as specified in its grant application. After the grant recipient submits a GQPR, the agency compares the information provided by the grant recipient in the report to the quarterly milestones proposed by the grant recipient in the work plan and budget that accompanied its grant application.

This information includes: identifier data (organization name, grant number, and period covered by the report); the date and location where the training occurred; the number of workers and employers attending training sessions provided by the organization during the quarter; the class length (in quarter hours); the language used to deliver the training; a description of the training provided; a narrative account of grant activities during the quarter (including capacity building activities, needs assessment activities, development of training materials/curriculum, evaluation activities, and other educational activities); and an evaluation of progress regarding planned versus actual work accomplished.

Using this information, OSHA can determine if the grant recipient is meeting the proposed program goals and objectives, as described in the grant proposal, and is spending funds consistent with the proposed budget.

The lack of disaggregated demographic data variables impedes efforts to measure and advance equity. Section 9 of the E.O. 13895 on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government requires each

agency to evaluate whether their policies produce racially inequitable results when implemented and make necessary changes to ensure underserved communities are adequately supported. Our first step is to collect disaggregated age, race, ethnicity, gender, and language datasets to make informed program decisions and strategies.

Requiring these reports on a quarterly basis enables the agency to identify training and expenditure discrepancies in a timely fashion so that it can implement appropriate action. In addition, this information permits OSHA to assess a grant recipient's ability to meet projected milestones and expenditures.

This ICR requests a revision to add race, ethnicity, and language to a currently approved data collection. By conducting an equity assessment to meet the requirements of Executive Order (E.O.) 13895 on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government and the DOL Evidence Building Act Evaluation Plan, Project 38 (See Section 15).

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the agency's functions to protect workers, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection, and transmission techniques.

III. Proposed Actions

OSHA is requesting that OMB revise the approval of the information collection requirements contained in Susan Harwood Training Grant Program. The agency is requesting a program change from 6,160 hours to 6,324 hours, a difference of 164 hours. This increase is due to the addition of the processing of the additional demographic data required for the data collection.

OSHA will summarize the comments submitted in response to this notice and will include this summary in the request to OMB to extend the approval of the information collection requirements.

Type of Review: Revision of a currently approved collection.

Title: Susan Harwood Training Grant Program.

OMB Control Number: 1218–0100.

Affected Public: Business or other for-profits.

Number of Respondents: 93.

Number of Responses: 372.

Frequency of Responses: On occasion.

Average Time per Response: Varies.

Estimated Total Burden Hours: 6,324.

Estimated Cost (Operation and Maintenance): $0.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal; (2) by facsimile (fax); if your comments, including attachments, are not longer than 10 pages you may fax them to the OSHA Docket Office at 202–693–1648. or (3) by hard copy. *Please note:* While OSHA's Docket Office is continuing to accept and process submissions by regular mail due to the COVID–19 pandemic, the Docket Office is closed to the public and not able to receive submissions to the docket by hand, express mail, messenger, and courier service. All comments, attachments, and other material must identify the agency name and the OSHA docket number for the ICR (Docket No. OSHA–2010–0021). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or a facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so that the agency can attach them to your comments.

Due to security procedures, the use of regular mail may cause a significant delay in the receipt of comments.

Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and dates of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (*e.g.,* copyrighted material) is not publicly available to read or download from this website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* website to submit comments and access the docket is available at the website's ''User Tips'' link. Contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627) for information about materials not available from the website, and for assistance in using the internet to locate docket submissions.

V. Authority and Signature

James S. Frederick, Deputy Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 8–2020 (85 FR 58393).

Signed at Washington, DC.

James S. Frederick,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2023–01561 Filed 1–25–23; 8:45 am]

BILLING CODE 4510–26–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–255–LT–2, 50–155–LT–2, 72–007–LT, 72–043–LT–2, ASLBP No. 22–974–01–LT–BD01]

Order; Notice of Hearing

AGENCY: Atomic Safety and Licensing Board, Nuclear Regulatory Commission.

In December 2020, Entergy Nuclear Operations, Inc., Entergy Nuclear Palisades, LLC, Holtec International, and Holtec Decommissioning International, LLC (collectively Applicants) sought the Nuclear Regulatory Commission's (NRC) approval for the indirect transfer of control of the Palisades Nuclear Plant and Big Rock Point Site, including the general licenses for each facility's Independent Spent Fuel Storage Installation Entergy's licenses, to Holtec International.[1] They further sought the transfer of operating authority of the facilities from Entergy to Holtec so that Holtec can conduct licensed activities at

[1] Palisades Nuclear Plant and Big Rock Point Plant Consideration of Approval of Transfer of Control of Licenses and Conforming Amendments, 86 FR 8225 (Feb. 4, 2021) [Hereinafter Hearing Opportunity Notice]; Application for Order Consenting to Transfers of Control of Licenses and Approving Conforming License Amendments, at 1 [Hereinafter Application], attached (Encl. 1) to Letter from A. Christopher Bakken III, President and Chief Executive Officer, Entergy, to NRC Document Control Desk (Dec. 23, 2020) (ADAMS Accession No. ML20358A075).

these sites.[2] On February 24, 2021, the State of Michigan's Attorney General (Michigan Attorney General) filed a petition requesting a hearing on these license amendments sought by Applicants.[3] On March 22, 2021 Applicants filed an answer arguing that the Michigan Attorney General failed to allege an admissible contention, and therefore its petition should be denied.[4] On March 29, 2021 the Michigan Attorney General replied to Applicants' answer, contending that its contentions are, in fact, admissible.[5]

Per its authority under 10 CFR 2.1319(a) to handle Subpart M license transfer proceedings, on July 15, 2022, the Commission partially admitted the Michigan Attorney General's petition by limiting the scope of the hearing to four issues:

(1) The reasonableness of the applicants' estimated 11-year timeframe within which the United States Department of Energy is to remove all of the spent fuel at Palisades;

(2) the reasonableness of Applicant's decommissioning cost estimate falling below the NRC's decommissioning cost minimum formula amount calculated for the Palisades site;

(3) the reasonableness of the applicants' 12% contingency level allocated to the radiological decommissioning, spent fuel management, and site restoration cost estimates; and

(4) the reasonableness of the applicants' assertion that it will be able to provide additional financial assurance, if that proves necessary, to complete decommissioning and terminate the license.[6]

The Commission directed that the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel ''[a]ppoint a single administrative judge . . . to serve as the Presiding Officer to take all necessary actions to compile, complete, and certify the hearing record, including presiding over any oral hearing.'' [7]

The Presiding Officer hereby schedules an oral hearing on the issues outlined above to commence on February 8, 2023, and to continue from day-to-day thereafter until such oral hearing is completed. This hearing shall take place at the NRC headquarters, 11545 Rockville Pike, Rockville, MD 20852, in the Hearing Room located on the 3rd Floor of the Two White Flint North building. The hearing will begin at 10:00 a.m. Eastern Standard Time (EST). The Board anticipates that the hearing will be completed by 5:00 p.m. EST on Friday, February 10, 2023. Only authorized representatives or counsel for the Michigan Attorney General, Applicants, and the NRC Staff who have entered written notice of appearance pursuant to 10 CFR 2.314(b) will be entitled to participate.

The sole purpose of the oral hearing is to develop an evidentiary record and to ''compile, complete and certify the hearing record'' for the Commission for its use in determining the outcome of this case. [8] While this oral hearing will be open to the public, no other representatives of the parties and no members of the public will be heard during the hearing.

It is so *ordered.*

For the Atomic Safety and Licensing Board.

Dated: January 23, 2023.

Michael M. Gibson,

Presiding Officer, Administrative Judge.

[FR Doc. 2023–01568 Filed 1–25–23; 8:45 am]

BILLING CODE 7590–01–P

[2] *See* Hearing Opportunity Notice; Application at 1.

[3] State of Michigan Attorney General, Petition of the Michigan Attorney General for Leave to Intervene and for a Hearing (Feb. 24, 2021).

[4] Entergy Nuclear Operations, Inc., Entergy Nuclear Palisades, LLC, Holtec International, and Holtec Decommissioning International, LLC, Answer Opposing the Michigan Attorney General's Petition for Leave to Intervene and Request for a Hearing (Mar. 22, 2021).

[5] State of Michigan Attorney General, Reply in Support of the Michigan Attorney General's Petition for Leave to Intervene and for a Hearing (Mar. 29, 2021).

[6] *See* Entergy Nuclear Operations, Inc. (Palisades Nuclear Plant and Big Rock Point Site), CLI–22–08 (2021).

[7] See *id.* at 135.

[8] *Id.* at 135.

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Request for Information; Digital Assets Research and Development

AGENCY: Office of Science and Technology Policy (OSTP).

ACTION: Notice of Request for Information (RFI).

SUMMARY: The Federal Government is developing a National Digital Assets Research and Development Agenda. The White House Office of Science and Technology Policy (OSTP)—on behalf of the Fast Track Action Committee (FTAC) on Digital Assets Research and Development of the Subcommittee on Networking and Information Technology Research and Development (NITRD) of the National Science and Technology Council, the National Science Foundation, and the NITRD National Coordination Office—requests public comments to help identify priorities for research and development related to digital assets, including various underlying technologies such as blockchain, distributed ledgers, decentralized finance, smart contracts, and related issues such as cybersecurity and privacy (*e.g.,* cryptographic foundations and quantum resistance), programmability, and sustainability as they relate to digital assets.

DATES: Interested individuals and organizations are invited to submit comments on or before 5 p.m. ET on March 3, 2023.

ADDRESSES: Interested individuals and organizations should submit comments electronically to *DARD-FTAC-RFI@nitrd.gov* and include < RFI Response: Digital Assets R&D Agenda > in the subject line of the email. Due to time constraints, mailed paper submissions will not be accepted, and electronic submissions received after the deadline cannot be ensured to be incorporated or taken into consideration.

Instructions: Response to this RFI is voluntary. Each responding entity (individual or organization) is requested to submit only one response, in English.

Responses may address one or more topics, as desired, from the enumerated list provided in this RFI, noting the corresponding number of the topic(s) to which the response pertains. Submissions must not exceed 10 pages (exclusive of cover page and references) in 11-point or larger font. Responses should include the name of the person(s) or organization(s) filing the comment, as well as the respondent type (*e.g.,* academic institution, advocacy group, professional society, community-based organization, industry, member of the public, government, other). Comments referencing materials that are not widely published should include copies or electronic links of the referenced materials. No business proprietary information, copyrighted information, or personally identifiable information (aside from that requested above) should be submitted in response to this RFI. Comments submitted in response to this notice are subject to the Freedom of Information Act. Comments submitted in response to this RFI may be posted online or otherwise released publicly.

In accordance with Federal Acquisitions Regulations Systems 15.202(3), responses to this notice are not offers and cannot be accepted by the Federal Government to form a binding contract. Additionally, those submitting responses are solely responsible for all expenses associated with response preparation.

FOR FURTHER INFORMATION CONTACT: For additional information, please direct questions to Nik Marda, Anna Brady-Estevez, and James Joshi at *DARD-FTAC-RFI@nitrd.gov* or 202–459–9688.

SUPPLEMENTARY INFORMATION:

Responsible innovation in digital assets could provide significant benefits for the American people. This RFI seeks input to shape a whole-of-government effort on research and development related to digital assets and distributed ledger technology.

Terminology: As defined in Executive Order (E.O.) 14067, *Ensuring Responsible Development of Digital Assets* and 87 FR 35250 (*Request for Information on Advancing Privacy-Enhancing Technologies*), this RFI uses the following definitions:

—*Central bank digital currency:* The term ''central bank digital currency'' or ''CBDC'' refers to a form of digital money or monetary value, denominated in the national unit of account, that is a direct liability of the central bank.

—*Cryptocurrencies:* The term ''cryptocurrencies'' refers to a digital asset, which may be a medium of exchange, for which generation or ownership records are supported through a distributed ledger technology (DLT) that relies on cryptography, such as a blockchain.

—*Privacy-enhancing technologies:* Privacy-enhancing technologies (PETs) refer to a broad set of technologies that protect privacy, which are within the scope for this RFI. We are particularly interested in privacy-preserving data sharing and analytics technologies, which describes the set of techniques and approaches that enable data sharing and analysis among participating parties while maintaining disassociability and confidentiality. Such technologies include, but are not limited to, secure multiparty computation, homomorphic encryption, zero-knowledge proofs, federated learning, secure enclaves, differential privacy, and synthetic data generation tools.

—*Digital assets:* The term ''digital assets'' refers to all CBDCs, regardless of the technology used, and to other representations of value, financial assets and instruments, or claims that are used to make payments or investments, or to transmit or exchange funds or the equivalent thereof, that are issued or represented in digital form through the use of DLT. For example, digital assets include cryptocurrencies, stablecoins, and CBDCs. Regardless of the label used, a digital asset may be, among other things, a security, a commodity, a derivative, or other financial product. Digital assets may be exchanged across digital asset trading platforms, including centralized and decentralized finance platforms, or through peer-to-peer technologies. For the purposes of this RFI, ''digital assets'' is also inclusive of its underlying technologies (*e.g.,* DLT).

Background: Digital assets are enabling new ways to move value through the online world, and their underlying technology is facilitating change across industries. In the private sector, companies are using DLT to synchronize databases with limited trust, enable new types of recordkeeping, build new infrastructures for managing digital identity, and provide novel financial services to consumers. In the public sector, the United States is exploring whether a CBDC could provide a trustworthy infrastructure to facilitate transactions in a highly digitized world. Across the board, applications of digital assets are benefitting from advances in foundational and translational research, spanning topics from cryptography to the social, behavioral, and economic sciences. However, research and development (R&D) in this space has often been conducted in a fragmented manner, with limited consideration for the broader implications, applications, and downside risks for the underlying innovations. This is particularly concerning because there are many examples of how digital assets introduce risks and exacerbate harms to people, communities, institutions, and the planet.

A more comprehensive R&D approach would provide concrete areas of focus towards achieving a holistic vision of a digital assets ecosystem that embodies democratic values and other key priorities. This approach would help ensure that sometimes-overlooked topics like environmentally-friendly consensus mechanisms and fraud-resistant transaction programmability receive appropriate levels of R&D support. This approach would also help ensure that advances in digital assets can also support technological progress in overlapping and adjacent domains, including the traditional financial services industry.

Recognizing the importance of responsible innovation in digital assets, President Biden signed E.O. 14067, which outlined the first whole-of-government approach to digital assets. Pursuant to this E.O., OSTP published *Technical Evaluation for a U.S. CBDC System,* which highlighted the importance of solving key open questions related to digital assets. OSTP found that there were several important and open questions related to digital assets R&D, which could benefit from increased attention and support. These R&D questions span a wide range of sociotechnical aspects, from technical innovations to social, behavioral, and economic aspects, germane to advancing digital assets while seeking to ensure that people from diverse groups, including underrepresented and marginalized groups, can access and use digital assets in a secure, privacy-preserving, inclusive, and equitable manner.

This report recommended that the U.S. Government develop and periodically update a National Digital Assets R&D Agenda. This recommendation complemented the *Multi-Agency R&D Priorities for the FY 2024 Budget,* which requested that Federal departments and agencies collaborate on critical and emerging technologies, including financial technologies. To help implement this recommendation, OSTP and the National Science Foundation are now co-chairing an interagency FTAC under the NITRD Subcommittee to develop this R&D Agenda. Through this whole-of-government effort, the Biden-Harris Administration will identify R&D priorities for digital assets, and help direct Federal resources and expertise toward advancing those priorities.

Digital assets have generated interest across a range of use cases that could help grow the economy, provide societal benefits, and advance equity and inclusion. There are a number of potential use cases that support these goals, such as the potential for digital assets to help human rights advocates receive financial support for their work under governments that are trying to curtail their activities. However, while much attention has been given to applications within the financial ecosystem, there are also applications that span a range of other sectors. For example, while some digital assets can consume a lot of energy, their underlying technology may support easier integration and coordination of clean energy resources, such as by providing a better ledger for the authentication, participation, and renumeration of beneficial services from distributed energy resources (*e.g.,* electric vehicles, connected appliances and devices, residential and commercial energy storage systems, solar power systems) on a smart grid. There may be other applications of interest across other sectors, such as healthcare and

public health, supply chain management, manufacturing, and internet architecture. The Federal Government should help ensure that the potential of digital assets is realized in sectors where it provides value, while taking steps to ensure that this realization is achieved with the appropriate guardrails needed to ensure responsible innovation in line with American values and a clear understanding and proactive mitigation of the downside risks associated with increasing adoption to digital assets.

A focused R&D effort could provide especially significant benefits for better understanding and designing a particular type of digital asset—the CBDC. While the United States has not made a decision about whether it will pursue a CBDC in the next few years, a focused R&D effort could help illustrate how to design a CBDC system in line with the Biden-Harris Administration's *Policy Objectives for a U.S. CBDC System.* For example, what cryptographic primitives and PETs could best protect the privacy of individuals using the CBDC system? How can social sciences and behavioral economics help identify and remove barriers for usage of the CBDC system by underserved communities? What security features are needed to ensure consumer trust and strong resilience against criminal actors? A focused R&D agenda that engages academia, industry, and civil society can advance policymakers' understanding of how design choices for a CBDC system can impact national policy objectives such as protecting privacy and advancing equity. In turn, these findings could help support the Federal Reserve, the White House, and the Department of the Treasury in assessing whether the issuance of a U.S. CBDC is in the national interest.

Through this RFI, OSTP seeks responses that could inform the full breadth of Federal R&D priorities related to digital assets, including R&D initiatives that could complement the Federal Reserve's research and experimentation related to CBDCs, consistent with the highest urgency that E.O. 14067 placed on R&D for a U.S. CBDC system. We also encourage respondents to explain how their R&D suggestions could help advance policy priorities or recommendations outlined in reports pursuant to E.O. 14067, such as OSTP's report titled *Climate and Energy Implications of Crypto-Assets in the United States.*

Scope: OSTP invites input from any interested stakeholders. In particular, OSTP is interested in input from parties researching, developing, acquiring, using, or governing digital assets; and stakeholders with relevant expertise, either learned or lived. This scope extends to CBDCs, financial use cases, and any of the other use cases and/or value propositions (across sectors) where digital assets might add value or introduce risks of negative impacts.

Information Requested: Respondents may provide information for one or more of the topics below, as desired. Through this RFI, OSTP seeks information on specific R&D opportunities related to the following topics:

1. *Goals, sectors, or applications that could be improved with digital assets and related technologies:* Information about goals, sectors, or applications where digital assets could provide significant value to the public, and examples of where benefits are already being delivered. This includes explanations of the current limitations in how those goals, sectors, and applications are currently advanced with limited use of digital assets and related technologies, and how increased or better use of digital assets could provide a specific advantage over existing approaches in advancing these objectives. Where relevant, respondents are encouraged to justify how digital assets provide unique value for advancing that goal, sector, or application compared to the use of traditional databases or other technologies (*e.g.,* as outlined in *National Institute of Standards and Technology Internal Report 8202,* Figure 6).

2. *Goals, sectors, or applications where digital assets introduces risks or harms:* Information about goals, sectors, or applications where digital assets might introduce risks or harms, and examples of where risks or harms are already being manifested. This includes explanations of direct or indirect impacts on users of digital assets, communities or sectors in which digital assets might circulate or be integrated into services, and non-users (*e.g.,* communities, environment) that may be exposed to risks or harms of digital assets (*e.g.,* ransomware attacks, higher electricity costs, pollution). Where relevant, respondents are encouraged to justify how digital assets are introducing new risks or harms in advancing the underlying goal, sector, or application compared to the use of traditional databases or other technologies.

3. *Federal research opportunities that could be introduced or modified to support efforts to mitigate risks from digital assets:* This might include information about R&D that helps companies build more environmentally-sustainable digital assets, assist law enforcement in countering illicit financial activity using digital assets, and enable regulators to protect consumers from fraud. This includes opportunities to innovate for equity and privacy with R&D that could help underserved communities harness the benefits of digital assets while being protected from their risks, such as via improvements to digital assets to allow them to better remain accessible, reliable, and secure even when connectivity and end-user device quality are limited.

4. *R&D that should be prioritized for digital assets:* Information about Federal research opportunities that could be introduced or modified to (a) advance the development of digital assets and/or (b) protect communities and U.S. national interests from risks or harms that digital assets might present. This includes topics for technical research, topics for research in the social sciences and across disciplinary boundaries, and opportunities for hardware and software development. This also includes information about emerging areas that could enable new opportunities to leverage digital assets, as well as information about technical limitations of digital assets and the associated business models and governance arrangements they often rely upon. Respondents are encouraged to, where relevant, describe how the discussed R&D topic could be useful in helping a potential U.S. CBDC system align with the *Policy Objectives for a U.S. CBDC System.* Respondents are also encouraged to share how the discussed R&D topic could help advance U.S. competitiveness and leadership in the world.

5. *Opportunities to advance responsible innovation in the broader digital assets ecosystem:* Information about opportunities for the United States to advance responsible innovation in the broader digital assets ecosystem, in areas that are adjacent to R&D. This may include programs that could support increased education and workforce training related to digital assets, standards setting efforts that could help advance democratic values in the use and governance of digital assets, and supply chain opportunities to maintain access to the necessary hardware for emerging digital assets.

6. *Other information that should inform the R&D Agenda:* Information about any other topic, not covered above, that respondents believe is important to inform the development of the National Digital Assets R&D Agenda. This may include ideas for collaborations between the Federal

Government and other entities, as well as proposals that may not yet be feasible with the current state of technology but might become feasible in the next decade.

Dated: January 22, 2023.

Rachel Wallace,

Deputy General Counsel.

[FR Doc. 2023–01534 Filed 1–25–23; 8:45 am]

BILLING CODE 3270–F1–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–96723; File No. SR–BOX–2023–03]

Self-Regulatory Organizations; BOX Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Establish a New Service and Related Fees for Use of the BOX Options Market LLC (''BOX'') Trade Management System

January 20, 2023.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 6, 2023, BOX Exchange LLC (the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Exchange filed the proposed rule change pursuant to section 19(b)(3)(A) of the Act,[3] and Rule 19b–4(f)(6) thereunder,[4] which renders [the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to establish a new service and related fees for use of the BOX Options Market LLC (''BOX'') Trade Management System. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's internet website at *https://rules.boxexchange.com/rulefilings.*

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] F17 CFR 240.19b–4(f)(2).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to establish a new service and related fees for the use of BOX's Trade Management System (''TMS'').

TMS is a system licensed by BOX that allows users to query trades, correct trades, and/or allocate trades to the appropriate accounts and sub-accounts for clearing (collectively known as ''trade information''). After a trade is executed, a Participant may need to update or correct the trade information before the trade is submitted to the Options Clearing Corporation (''OCC'') for clearing. Currently, TMS is accessed only by the BOX Market Operations Center (''MOC''). If a Participant wishes to make any corrections or updates to trade information, they must contact the MOC or produce a detailed file for automated processing by BOX.

Participants have requested that BOX allow them to access TMS directly so that they may correct their trade information themselves without interacting with the MOC or submitting a detailed file. The Exchange believes that providing direct access to TMS to Participants will allow them to more efficiently manage their back office clearing operations and assist them in providing accurate clearing information to the OCC. As such, the Exchange now proposes to make TMS available to BOX Participants, which will allow Participants the ability to correct certain OCC-required trade information. Specifically, TMS will allow Participants to correct a trade's account number, sub-account number, Clearing Member Trade Assignment (''CMTA'') clearing firm, Clearing Participant Give-Up, quantity, account type, and other information connected to trades.

The Exchange also proposes to establish a subscription fee of $350 per month, per user for the use of TMS.[5] The Exchange notes that use of TMS is completely voluntary and the subscription fee will be charged to all Participants equally based on the number of users requested. The Exchange also notes that Participants who do not wish to use TMS will still be able to make any corrections or updates to trade information by contacting the MOC or producing a detailed file for automated processing by BOX.[6]

The Exchange notes that other options exchanges make similar tools available to firms where the firm, not Exchange personnel, may correct trade information that is submitted to the OCC.[7] The Exchange further notes that another exchange charges its participants a monthly fee per user for a similar product.[8]

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of section 6(b) of the Act,[9] in general, and sections 6(b)(4) and section 6(b)(5) of the Act,[10] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system. The Exchange notes that offering the use of TMS to BOX Participants is consistent with the Act in that the use of TMS is completely voluntary and the subscription fees will be imposed on all

[5] For example, Firm A is a BOX Participant who wishes to access TMS for two separate users. Under this proposal, Firm A would be assessed a fee of $700 per month for their use of TMS (two users at $350 equals $700).

[6] The Exchange notes that other exchanges charge for performing certain post-trade adjustments on behalf of permit holders. *See* NYSE Arca Options Fees and Charges, Service Fees *and* NYSE American Options Fee Schedule, Section VIII (charging $5.00 per trade adjusted for Post-Trade Adjustments that do not affect the contractual terms of a trade, the Service Fee would only apply when the Exchange performs Post-Trade Adjustments on behalf of ATP or OTP Holders when such Post-Trade Adjustments could otherwise have been self-executed. ATP or OTP Holders may continue to make these Post-Trade Adjustments on their own without incurring the Service Fee).

[7] *See e.g.,* the Nasdaq Options Maintenance Tool, the Cboe Options Clearing Editor, the MIAX Member Firm Portal, and the NYSE Pillar Trade Ops Portal.

[8] The Nasdaq Stock Market LLC (''Nasdaq'') charges $200 per month, per user. *See* Nasdaq Rules Options 7 Pricing Schedule, Section 6 Nasdaq Options Maintenance Tool.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(4) and (5).

Participants equally based on the number of users requested. Further, the Exchange believes that the proposed fee discussed herein is equitable and not unfairly discriminatory because the use of TMS is voluntary and subscription fees will be charged to all Participants equally based on the number of users provisioned to use TMS. As noted above, Participants use of TMS is an optional alternative to the current processes of (1) requesting transactions to be updated by the MOC or (2) producing a detailed file for automated processing by BOX. The Exchange believes that providing TMS to Participants will allow Participants to more efficiently manage their back office clearing operations and assist them in providing accurate clearing information to the OCC. The Exchange notes that trade information in TMS is specific to each Participant and their trades, allowing them to conveniently verify, update, and/or correct transaction information as needed.

Further, the Exchange believes that the proposed fee is reasonable and appropriate as it will cover the costs associated with establishing the use of TMS for Participants that request it and administering the service to those Participants. Further, the Exchange notes that the proposed fee is nominal and is not designed to provide a revenue stream to BOX but rather to offset the costs associated with allowing Participants to access and use TMS. Specifically, the Exchange notes that the proposed fee is intended to cover the costs of establishing the service, and monitoring and supporting the access and use of TMS by Participants, among other things. As such, the Exchange believes the proposed fee is reasonable and appropriate.

As noted herein, Participants have requested this functionality and each Participant may choose whether the value added is worth the cost of the subscription. The Exchange believes offering TMS to BOX Participants is consistent with the Act because TMS provides Participants with the ability to directly update their transactions, at their convenience, and immediately verify the results of their modifications. Using TMS is purely a matter of convenience and is wholly voluntary by the Participant. The Exchange again notes that another exchange charges a monthly fee per user for a similar tool.[11]

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change would allow the Exchange to establish a new service and related fees for the use of BOX's TMS on a voluntary basis. The Exchange notes that the subscription fee will be charged to all Participants equally based on the number of users requested. Any Participants who do not wish to use TMS will still be able to make any corrections or updates to trade information by contacting the MOC or producing a detailed file for automated processing by BOX. Further, the Exchange notes that another exchange offers a similar service and charges a monthly fee per user for a similar tool.[12] As such, the Exchange does not believe that the proposed rule change will impose any burden on intermarket or intramarket competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to section 19(b)(3)(A) of the Act[13] and Rule 19b–4(f)(6) thereunder.[14]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[15] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[16] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. According to the Exchange, providing immediate access to BOX's TMS will offer BOX Participants the option to more efficiently manage their back office clearing operations and will assist them in providing accurate clearing information to the OCC. Moreover, other exchanges offer similar services to their members. Accordingly, the proposal does not raise novel issues. For these reasons, the Commission designates that the proposed rule change to be operative immediately upon filing.[17]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BOX–2023–03 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–BOX–2023–03. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule

[11] *See supra,* note 8.

[12] *See supra,* note 8.

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[15] 17 CFR 240.19b–4(f)(6).

[16] 17 CFR 240.19b–4(f)(6)(iii).

[17] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BOX–2023–03 and should be submitted on or before February 16, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–01516 Filed 1–25–23; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–96722; File No. SR–ICEEU–2023–001]

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amendments to Clearing Fees for ICE Futures Europe Gilt Futures and Options and Euribor Options Contracts

January 20, 2023.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 9, 2023, ICE Clear Europe Limited (''ICE Clear Europe'' or the ''Clearing House'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule changes described in Items I, II and III below, which Items have been prepared primarily by ICE Clear Europe. ICE Clear Europe filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] such that the proposed rule change was immediately effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

ICE Clear Europe Limited (''ICE Clear Europe'' or the ''Clearing House'') proposes changes to certain of its clearing fees for ICE Futures Europe Gilt Futures and Options and Euribor Options contracts.[5]

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICE Clear Europe included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. ICE Clear Europe has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose

ICE Clear Europe is proposing to increase certain clearing fees for ICE Futures Europe (''IFEU'') Gilt Futures and Options and Euribor Options contracts. The fee changes are intended to provide revenue to support the further development of IFEU's Gilt markets and bring fees related to these contracts in line with the fees of other government bond futures and options traded on other Exchanges. For Euribor options, the changes would be made to align fees with existing ICE Clear Europe clearing fees for the underlying Euribor futures.[6] The amendments do not otherwise change the terms and conditions of the relevant contract.

Fees with respect to the Gilt contracts have not been changed since 2017. The fee increases are intended to align fees for the Gilt contracts more closely with those of government bond futures and options traded on other exchanges. In addition, there is only limited open interest in certain Gilt contracts (particularly the short, medium and ultra-long contracts). The proposed fee increases (together with planned increases in trading fees at IFEU) are intended to provide revenue to support additional business development activity with respect to these contracts, including funding liquidity provider and other incentives that may be adopted in the future. In ICE Clear Europe's experience with similar contracts, such incentives will likely be needed in order to generate additional market activity and liquidity in contacts with limited existing open interest.

With respect to Euribor options, the Clearing House proposes to increase the clearing fees to align with the underlying Euribor futures contracts. ICE Clear Europe believes that the changes will eliminate an unnecessary distinction between the cost of trading futures and options. ICE Clear Europe notes that clearing fees with respect to these contracts have not changed since ICE Clear Europe commenced clearing them in 2014.

The fee tables below set forth the proposed clearing fee changes. The proposed new fees are intended to come into effect on February 1, 2023, subject to regulatory approval. ICE Clear Europe intends, together with IFEU, to publish a Circular to inform market participants of the changes in advance of such proposed effective date.

Gilt Futures and Options Proposed Exchange and Clearing Fees

Below is a table showing the existing and proposed clearing fees and a table showing the proposed amended Exchange and Clearing fees.

[18] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(2).

[5] Capitalized terms used but not defined herein have the meanings specified in the ICE Clear Europe Clearing Rules.

[6] IFEU is contemporaneously increasing certain trading fees relating to these contracts, and is expected to announce such increases by circular in advance of implementation.

[7] Clearing fees applicable to deliveries would be unchanged. Fee information for deliveries is included in the table for completeness.

[8] Clearing fees applicable to futures contracts and futures/basis block transactions would be unchanged. Fee information for these contracts is included for completeness.

	Existing clearing fee	Proposed new clearing fee
Contract—Short, Medium, Long and Ultra-Long Gilts:		
Futures Contracts	0.20	*0.24*
Futures Basis/Block	0.20	*0.24*
Futures Block with Delayed Publication	0.34	*0.36*
Deliveries	2.50	[7] 2.50
Options Contracts (Long Gilt only)	0.20	*0.24*
Options Block (Long Gilt only)	0.20	*0.24*
Options Block with Delayed Publication (Long Gilt only)	0.34	*0.36*
Option Exercise (Long Gilt only)	0.20	*0.33*
Contract—Euribor®:		
Futures Contracts	0.20	[8] 0.20
Futures Basis/Block	0.20	0.20
Futures Block with Delayed Publication	0.34	*0.36*
Cash Settlement	0.25	*0.28*
Options Contracts	0.18	*0.20*
Options Block	0.18	*0.20*
Options Block with Delayed Publication	0.34	*0.36*
Option Exercise	0.25	*0.28*

(b) Statutory Basis

ICE Clear Europe believes that the proposed rule changes are consistent with the requirements of the Act, including Section 17A of the Act [9] and regulations thereunder applicable to it. In particular, Section 17A(b)(3)(D) of the Act [10] requires that ''[t]he rules of the clearing agency provide for the equitable allocation of reasonable dues, fees and other charges among its participants.'' ICE Clear Europe believes that its clearing fees, as proposed to be amended, would be reasonable and appropriate for the relevant Contracts. ICE Clear Europe's fees are imposed at the product level on a per transaction basis (as are the applicable Exchange fees), and would be generally applicable to market participants trading in the contracts. As set forth above, ICE Clear Europe is proposing to increase clearing fees for the relevant Gilt contracts in order to support further development of trading and liquidity in those contracts, in light of the lack of current open interest. ICE Clear Europe believes the higher fees will facilitate funding of liquidity and other incentives that will support the contract. The amended fees will also be consistent with the fees applicable to government bond futures contracts traded at other exchanges. ICE Clear Europe has determined that the increased fees would provide an appropriate balance between the costs of clearing for market participants and the expenses incurred by ICE Clear Europe in offering clearing of the relevant contracts, and permit greater support by ICE Clear Europe of clearing such products. As such, in ICE Clear Europe's view, the amendments are consistent with the equitable allocation of reasonable dues, fees and other charges among its Clearing Members and other market participants, within the meaning of Section 17A(b)(3)(D) of the Act.[11]

The proposed amendments are also consistent with the requirements of Section 17A(b)(3)(F) of the Act [12] which requires, among other things, that ''[t]he rules of a clearing agency [. . .] are not designed to permit unfair discrimination in the admission of participants or among participants in the use of the clearing agency.'' As noted above, the fees, as proposed to be amended, would apply on a per transaction and would apply to market participants generally. Although ICE Clear Europe may use revenue from additional fees to support liquidity and other incentive arrangements for Gilt contracts, ICE Clear Europe believes that any such incentives that may be adopted will be appropriately tailored to support additional trading and liquidity in the contracts. As a result, the amendments would not result in any unfair discrimination among Clearing Members in their use of the Clearing House, within the meaning of Section 17A(b)(3)(F) of the Act.[13]

(B) Clearing Agency's Statement on Burden on Competition

ICE Clear Europe does not believe the proposed rule changes would have any impact, or impose any burden, on competition not necessary or appropriate in furtherance of the purpose of the Act. Although ICE Clear Europe is increasing certain clearing fees, as set forth herein, it believes such changes are appropriate to reflect the costs and expenses incurred by the Clearing House in clearing the relevant Contracts and are consistent with other contracts cleared at the Clearing House and similar contracts cleared on other venues. The amendments would also support appropriate liquidity and other incentive arrangements to further develop trading. ICE Clear Europe does not believe that the amendments would adversely affect the ability of Clearing Members or other market participants generally to access clearing services for the Contracts. Further, since the revised fees will be the base rate applicable to all Clearing Members and market participants that clear the products, ICE Clear Europe believes that the amendments would not otherwise affect competition among Clearing Members, adversely affect the market for clearing services or limit market participants' choices for obtaining clearing services. As a result, ICE Clear Europe does not believe the amendments would have any impact or impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed amendment has not been solicited or received by ICE Clear Europe. ICE Clear Europe will notify the Commission of any comments received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)

[9] 15 U.S.C. 78q–1.

[10] 15 U.S.C. 78q–1(b)(3)(D).

[11] 15 U.S.C. 78q–1(b)(3)(D).

[12] 15 U.S.C. 78q–1(b)(3)(F).

[13] 15 U.S.C. 78q–1(b)(3)(F).

of the Act [14] and paragraph (f) of Rule 19b–4 [15] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, security-based swap submission or advance notice is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*) or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ICEEU–2023–001 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–ICEEU–2023–001. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings will also be available for inspection and copying at the principal office of ICE Clear Europe and on ICE Clear Europe's website at *https://www.theice.com/clear-europe/regulation.*

All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ICEEU–2023–001 and should be submitted on or before February 16, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–01515 Filed 1–25–23; 8:45 am]

BILLING CODE 8011–01–P

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–96720; File No. SR–MEMX–2022–32]

Self-Regulatory Organizations; MEMX LLC; Notice of Withdrawal of a Proposed Rule Change To Amend the Exchange's Fee Schedule To Adopt Market Data Fees

January 20, 2023.

On November 18, 2022, MEMX LLC (''MEMX'') filed with the Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend its Fee Schedule to adopt fees for its market data products. The proposed rule change was immediately effective upon filing with the Commission pursuant to section 19(b)(3)(A) of the Act.[3] The proposed rule change was published for comment in the **Federal Register** on December 7, 2022.[4] On January 17, 2023, MEMX withdrew the proposed rule change (SR–MEMX–2022–32).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A). A proposed rule change may take effect upon filing with the Commission if it is designated by the exchange as ''establishing or changing a due, fee, or other charge imposed by the self-regulatory organization on any person, whether or not the person is a member of the self-regulatory organization.'' 15 U.S.C. 78s(b)(3)(A)(ii).

[4] *See* Securities Exchange Act Release No. 96430 (December 1, 2022), 87 FR 75083.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[5]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–01514 Filed 1–25–23; 8:45 am]

BILLING CODE 8011–01–P

[5] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–197, OMB Control No. 3235–0200]

Proposed Collection; Comment Request; Extension: Rule 15c3–1

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (''PRA''), the Securities and Exchange Commission (''Commission'') is soliciting comments on the existing collection of information provided for in Rule 15c3–1 (17 CFR 240.15c3–1), under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Rule 15c3–1 requires brokers-dealers to have at all times sufficient liquid assets to meet their current liabilities, particularly the claims of customers. The rule facilitates the monitoring of the financial condition of broker-dealers by the Commission and the various self-regulatory organizations. It is estimated that broker-dealer respondents registered with the Commission and subject to the collection of information requirements of Rule 15c3–1 incur an aggregate annual time burden of approximately 70,137 hours to comply with this rule and an aggregate annual cost burden of approximately $135,167.

Written comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Consideration will be given to comments and suggestions submitted by March 27, 2023.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549, or send an email to: *PRA_Mailbox@sec.gov.*

Dated: January 20, 2023.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–01519 Filed 1–25–23; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–96724/January 23, 2023]

Order Making Fiscal Year 2023 Annual Adjustments to Transaction Fee Rates

I. Background

Section 31 of the Securities Exchange Act of 1934 (''Exchange Act'') requires each national securities exchange and national securities association to pay transaction fees to the Commission.[1] Specifically, Section 31(b) requires each national securities exchange to pay to the Commission fees based on the aggregate dollar amount of sales of certain securities (''covered sales'') transacted on the exchange.[2] Section 31(c) requires each national securities association to pay to the Commission fees based on the aggregate dollar amount of covered sales transacted by or through any member of the association other than on an exchange.[3]

Section 31 of the Exchange Act requires the Commission to annually adjust the fee rates applicable under Sections 31(b) and (c) to a uniform adjusted rate.[4] Specifically, the Commission must adjust the fee rates to a uniform adjusted rate that is reasonably likely to produce aggregate fee collections (including assessments on security futures transactions) equal to the regular appropriation to the Commission for the applicable fiscal year.[5]

The Commission is required to publish notice of the new fee rates under Section 31 not later than 30 days after the date on which an Act making a regular appropriation for the applicable fiscal year is enacted.[6] On December 29, 2022, the President signed into law the Consolidated Appropriations Act, 2023, which includes total appropriations of $2,209,770,000 to the SEC for fiscal year 2023.

II. Fiscal Year 2023 Annual Adjustment to the Fee Rate

The new fee rate is determined by (1) subtracting the sum of fees estimated to be collected prior to the effective date of the new fee rate[7] and estimated assessments on security futures transactions to be collected under Section 31(d) of the Exchange Act for all of fiscal year 2023[8] from an amount equal to the regular appropriation to the Commission for fiscal year 2023, and (2) dividing by the estimated aggregate dollar amount of covered sales for the remainder of the fiscal year following the effective date of the new fee rate.[9]

As noted above, the Consolidated Appropriations Act, 2023, includes total appropriations of $2,209,770,000 to the Commission for fiscal year 2023.[10] The Commission estimates that it will collect $1,601,107,658 in fees for the period prior to the effective date of the new fee rate and $0 in assessments on round turn transactions in security futures products during all of fiscal year 2023. Using the methodology described in Appendix A, the Commission estimates that the aggregate dollar amount of covered sales for the remainder of fiscal year 2023 to be $76,211,125,379,350.

The uniform adjusted rate is computed by dividing the residual fees to be collected of $608,662,342 by the estimated aggregate dollar amount of covered sales for the remainder of fiscal year 2023 of $76,211,125,379,350; this results in a uniform adjusted rate for fiscal year 2023 of $8.00 per million.[11]

III. Effective Date of the Uniform Adjusted Rate

Under Section 31(j)(4)(A) of the Exchange Act, the fiscal year 2023 annual adjustments to the fee rates applicable under Sections 31(b) and (c) of the Exchange Act shall take effect on the later of October 1, 2022, or 60 days after the date on which a regular appropriation to the Commission for fiscal year 2023 is enacted.[12] The regular appropriation to the Commission for fiscal year 2023 was enacted on December 29, 2022, and accordingly, the new fee rates applicable under Sections 31(b) and (c) of the Exchange Act will take effect on February 27, 2023.

IV. Conclusion

Accordingly, pursuant to Section 31 of the Exchange Act,

It is hereby ordered that the fee rates applicable under Sections 31(b) and (c) of the Exchange Act shall be $8.00 per $1,000,000 effective on February 27, 2023.

By the Commission.

J. Matthew DeLesDernier,

Deputy Secretary.

Appendix A

This appendix provides the methodology for determining the annual adjustment to the

[1] 15 U.S.C. 78ee.

[2] 15 U.S.C. 78ee(b).

[3] 15 U.S.C. 78ee(c).

[4] In some circumstances, the SEC also must make a mid-year adjustment to the fee rates applicable under Sections 31(b) and (c).

[5] 15 U.S.C. 78ee(j)(1) (the Commission must adjust the rates under Sections 31(b) and (c) to a ''uniform adjusted rate that, when applied to the baseline estimate of the aggregate dollar amount of sales for such fiscal year, is reasonably likely to produce aggregate fee collections under [Section 31] (including assessments collected under [Section 31(d)]) that are equal to the regular appropriation to the Commission by Congress for such fiscal year.'').

[6] 15 U.S.C. 78ee(g).

[7] The sum of fees to be collected prior to the effective date of the new fee rate is determined by applying the current fee rate to the dollar amount of covered sales prior to the effective date of the new fee rate. The exchanges and FINRA have provided data on the dollar amount of covered sales through November, 2022. To calculate the dollar amount of covered sales from December, 2022 to the effective date of the new fee rate, the Commission is using the same methodology it used in fiscal year 2020. This methodology is described in Appendix A of this order.

[8] Currently, security futures do not trade on any market, therefore the Commission has not collected any assessments for transactions in security futures. Accordingly, the forecast for the assessments for all of fiscal year 2023 for single stock futures is zero.

[9] To estimate the aggregate dollar amount of covered sales for the remainder of fiscal year 2023 following the effective date of the new fee rate, the Commission is using the same methodology it used previously. This methodology is described in Appendix A of this order.

[10] The President signed into law the ''Consolidated Appropriations Act, 2023'' on December 29, 2022. This legislation included an appropriation of $2,149,000,000 to the SEC for fiscal year 2023 operations. The Act further directed that ''[i]n addition to the foregoing appropriation, for move, replication, and related costs associated with a replacement lease for the Commission's District of Columbia headquarters facilities, not to exceed $57,405,000, to remain available until expended; and for move, replication, and related costs associated with a replacement lease for the Commission's San Francisco Regional Office facilities, not to exceed $3,365,000, to remain available until expended.'' The sum of these amounts is $2,209,770,000. Finally, the Act further directed that ''for purposes of calculating the fee rate under section 31(j) . . . all amounts appropriated under this heading shall be deemed to be the regular appropriation to the Commission for fiscal year 2023.''

[11] Appendix A shows the process of calculating the fiscal year 2023 annual adjustment and includes the data used by the Commission in making this adjustment.

[12] 15 U.S.C. 78ee(j)(4)(A).

fee rates applicable under Sections 31(b) and (c) of the Exchange Act for fiscal year 2023. Section 31 of the Exchange Act requires the fee rates to be adjusted so that it is reasonably likely that the Commission will collect aggregate fees equal to its regular appropriation for fiscal year 2023.

To make the adjustment, the Commission must project the aggregate dollar amount of covered sales of securities on the securities exchanges and certain over-the-counter (''OTC'') markets over the course of the year. The fee rate equals the ratio of the Commission's regular appropriation for fiscal year 2023 (less the sum of fees to be collected during fiscal year 2023 prior to the effective date of the new fee rate and aggregate assessments on security futures transactions during all of fiscal year 2023) to the estimated aggregate dollar amount of covered sales for the remainder of the fiscal year following the effective date of the new fee rate.

For 2023, the Commission has estimated the aggregate dollar amount of covered sales by projecting forward the trend established in the previous decade. More specifically, the dollar amount of covered sales was forecasted for months subsequent to November 2022, the last month for which the Commission has data on the dollar volume of covered sales.[13]

The following sections describe this process in detail.

A. Baseline Estimate of the Aggregate Dollar Amount of Covered Sales for Fiscal Year 2023

First, calculate the average daily dollar amount of covered sales (''ADS'') for each month in the sample (February 2012–November 2022). The monthly total dollar amount of covered sales (exchange plus certain OTC markets) is presented in column C of Table A.

The model forecasts the monthly moving average of the average daily dollar amount of covered sales. Each month's average daily dollar amount of covered sales is calculated by dividing the total covered sales for that month (column C of Table A) by the number of trading days for that month (column B of Table A). These amounts are shown in column D of Table A. The moving average will span the same number of months required to be forecast for the remainder of the fiscal year. The trailing moving average used in the forecast model is presented in column E of Table A.

To capture the recent trends in the monthly changes in the moving averages, calculate the 1-month and 2-month lags of the trailing moving average shown in column E in Table A. These amounts are shown in columns F and G, respectively, of Table A.

Next, model the monthly trailing moving average of ADS as function of a constant term and the two lagged trailing moving averages using the ordinary least squares technique.

Use the estimated model to forecast the trailing moving average of ADS of the first month after the last available monthly data. Estimate the trailing moving average of the second month using the forecasted value of the first month and the actual value of the month before that. Similarly, estimate the trailing moving average of the third month using the forecasted values of the two previous months. Continue in this fashion until the end of the fiscal year.

The estimate of the trailing moving average ADS for the last applicable month in the fiscal year is a prediction of the moving average for those months that need to be predicted. This estimate is used as the predicted value of ADS for each month in the forecast period; to obtain the forecast total covered sales for each month, multiply the predicted ADS by the number of days in each month.

The following is a more formal (mathematical) description of the procedure:

1. Begin with the monthly data for total dollar volume of covered sales (column C). The sample spans ten years, from February 2012–November 2022.[14] Divide each month's total dollar volume by the number of trading days in that month (column B) to obtain the average daily dollar volume (ADS, column D).

2. For each month *t,* calculate the 9-month trailing moving average of ADS (shown in column E). For example, the value for October, 2012 is the average of the 9 months ending in October, 2012, or February 2012 through October 2012 inclusive.

3. Calculate the 1-month and 2-month lags of the trailing moving average. For example, the 1-month lag of the 9-month trailing moving average for November, 2012 is equal to the 9-month trailing moving average for October, 2012. The 2-month lag of the 9-month trailing moving average for December, 2012 is equal to the 9-month trailing moving average for October 2012. These are shown in columns F and G.

4. Estimate the model using ordinary least squares:

$$y_t = \alpha + \beta_1 y_{t-1} + \beta_2 y_{t-2} + u_t$$

Where y_t is the 9-month trailing moving average of the average daily sales for month t, and y_{t-1} and y_{t-2} are the 1-month and 2-month lags of y_t, and u_t representing the error term for month t. The model can be estimated using standard commercially available software. The estimated parameter values are $a = +2{,}150{,}476{,}361$, $b_1 = +1.587842$, $b_2 = -0.590472$. The root-mean squared error (RMSE) of the regression is 8,030,961,258.

5. The predicted value of the 9-month trailing moving average of the last month to be forecast represents the final forecast of covered sales for the entire prediction period. This value is shown in column H. This represents the prediction for August of 2023. To calculate this value from the model above, one needs the 1-month and 2-month lag of the 9-month trailing moving average ADS, *i.e.,* the 9-month trailing moving average for June and July. The 9-month trailing moving average for July is obtained by using the 1-month and 2-month lags for July, that is, the 9-month trailing moving averages for June and May. To arrive at all the necessary inputs, one begins with the first month to be forecast, in this case, December 2022, and iterates predictions forward until the last month is predicted. One then multiplies the final predicted 9-month trailing moving average ADS by the number of days in each month to arrive at the forecast total dollar amount of covered sales. This is shown in column I.

6. For example, for December 2022, using the a, b_1, and b_2 parameter estimates shown above, along with the 1-month and two-month lags in the 9-month trailing moving average ADS (representing the 9-month trailing moving average ADS for October and November 2022, respectively), one can estimate the forecast 9-month trailing moving average ADS for December: $+2{,}150{,}476{,}361 + (1.587842 \times 606{,}143{,}338{,}486) + (-0.590472 \times 627{,}874{,}685{,}327) = 593{,}867{,}637{,}983$.

7. With the estimated 9-month trailing moving average ADS for December 2022 calculated above, one can estimate the 9-month trailing moving average ADS for January, 2023. The estimate obtained from December becomes the 1-month lag for January, and the 1-month lag used in the December forecast becomes the 2-month lag for the January forecast. Thus, the predicted 9-month trailing moving average ADS for January 2023 is calculated as: $+2150476361 + (1.587842 \times 593{,}867{,}637{,}983) + (-0.590472 \times 606{,}143{,}338{,}486) = 587{,}207{,}522{,}789$.

8. Using the forecasts for December and January, one can estimate the value for February. Repeat this procedure for subsequent months, until the estimate for August 2023 is obtained. This value is 586,239,425,995.[15] This value is then used to calculate the final forecast total monthly covered sales for all 9 months from December 2022 through August 2023.

9. To obtain the estimate of total monthly covered sales for each month, multiply the number of trading days in the month, shown in column B in Table A, by the final forecast 9-month trailing moving average ADS, shown in column H of Table A. This product is shown in column I of Table A, and these figures are used to calculate the new fee rate.

B. Using the Forecasts From A To Calculate the New Fee Rate

1. Use Table A to estimate fees collected for the period September 1, 2022 through February 26, 2023. The projected aggregate dollar amount of covered sales for this period is $69,917,364,964,488. Actual and projected fee collections at the current fee rate of $22.90 per million are $1,601,107,658.

[13] To determine the availability of data, the Commission compares the date of the appropriation with the date the transaction data are due from the exchanges (10 business days after the end of the month). If the business day following the date of the appropriation is equal to or subsequent to the date the data are due from the exchanges, the Commission uses these data. The appropriation was signed on December 29, 2022. The first business day after this date was December 30, 2022. Data for November were due from the exchanges on December 14, 2022. As a result, the Commission used November 2022 and earlier data to forecast volume for December 2022 and later months.

[14] Because the model uses a two period lag in the 9-month trailing moving average of average daily covered sales, ten additional months of data are added to the table so that the model is estimated with 120 observations.

[15] One obtains insignificantly different values using the rounded parameter estimates shown above. The predicted ADS values displayed above represents the full precision estimate.

2. Estimate the amount of assessments on security futures products collected from September 1, 2022 through August 31, 2023. The only entity reporting assessable security futures products ceased operations in September, 2020.[16] Consequently, the estimated amount of assessments on security futures products collected from September 2022 through August 2023 is zero.

3. Subtract the amount $1,601,107,658 from the target off-setting collection amount set by Congress of $2,209,770,000, leaving $608,662,342 to be collected on dollar volume for the period February 27, 2023 through August 31, 2023.

4. Use Table A to estimate dollar volume for the period February 27, 2023 through August 31, 2023. The estimate is $76,211,125,379,350. Finally, compute the fee rate required to produce the additional $608,662,342 in revenue. This rate is $608,662,342 divided by $76,211,125,379,350 or 0.00000798653.

5. Round the result to the seventh decimal point, yielding a rate of 0.00000800 (or $8.00 per million).

This table summarizes the estimates of the aggregate dollar amount of covered sales, by time period. The figures in this table can be used to determine the new fee rate.

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[16] Currently, security futures do not trade on any market, therefore the Commission has not collected any assessments for transactions in security futures. Accordingly, the forecast for the assessments for all of fiscal year 2023 for single stock futures is zero.

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Table A. Baseline estimate of the aggregate dollar amount of sales.

Fee rate calculation.

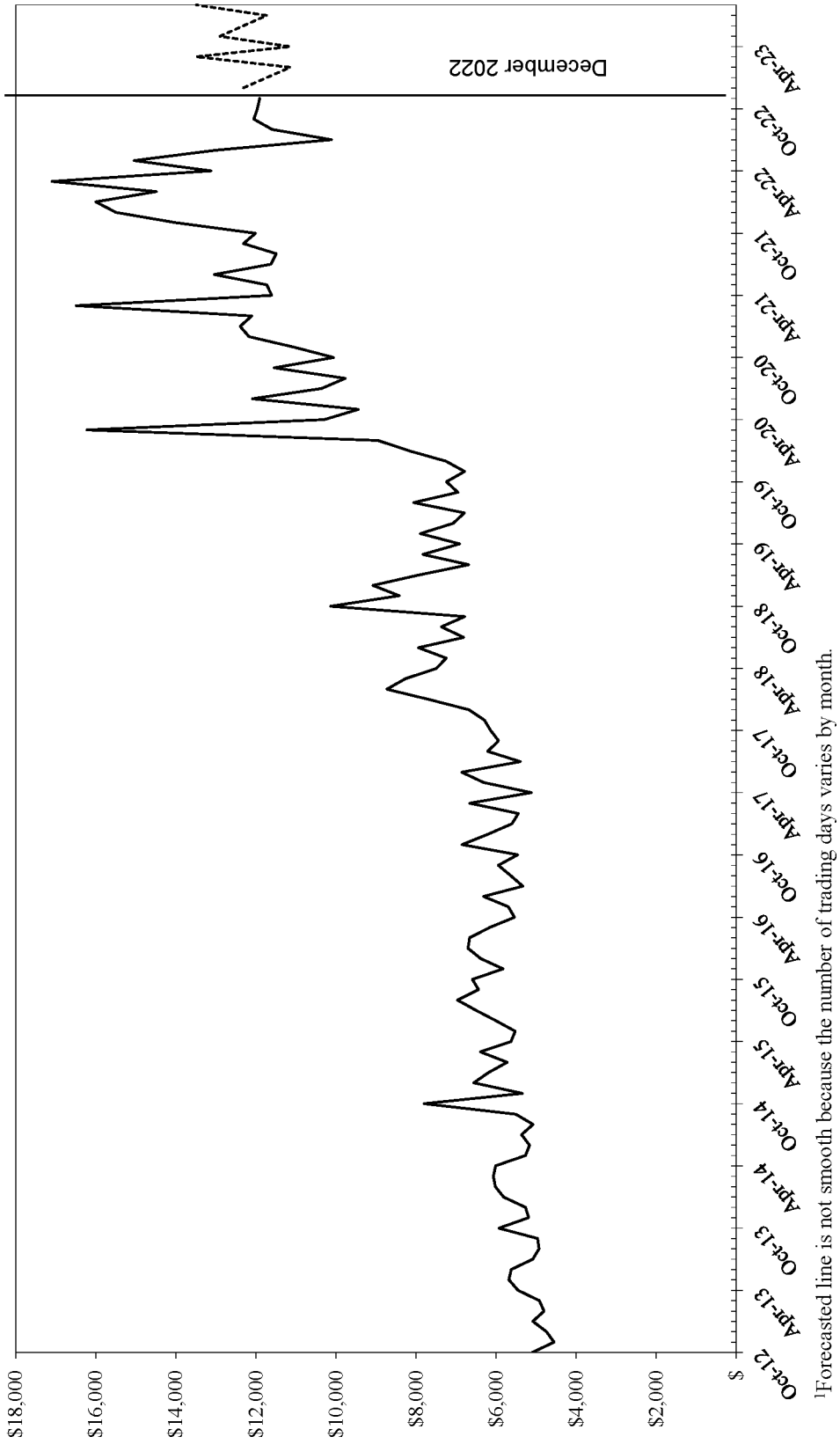
a. Baseline estimate of the aggregate dollar amount of sales, 09/01/2022 to 01/31/2023 ($Millions)	59,951,295
b. Baseline estimate of the aggregate dollar amount of sales, 02/01/2023 to 02/26/2023 ($Millions)	9,966,070
c. Baseline estimate of the aggregate dollar amount of sales, 02/27/2023 to 02/28/2023 ($Millions)	1,172,479
d. Baseline estimate of the aggregate dollar amount of sales, 03/01/2023 to 08/31/2023 ($Millions)	75,038,647
e. Estimated collections in assessments on security futures products in fiscal year 2023 ($Millions)	0.000
f. Implied fee rate (($2,209,770,000 - $22.90*(a+b) - e) / (c+d)	$8.00

(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)	(I)
Month	# of trading days in month	Total dollar amount of sales	Average daily dollar amount of sales (ADS)	9-month trailing moving average ADS	1-month lag of 9-month trailing moving average ADS	2-month lag of 9-month trailing moving average ADS	Forecast 9-month trailing moving average ADS	Forecast total dollar amount of sales
Feb-12	20	$5,011,862,514,132	$250,593,125,707					
Mar-12	22	5,638,847,967,025	256,311,271,228					
Apr-12	20	5,084,239,396,560	254,211,969,828					
May-12	22	5,611,638,053,374	255,074,456,972					
Jun-12	21	5,121,896,896,362	243,899,852,208					
Jul-12	21	4,567,519,314,374	217,500,919,732					
Aug-12	23	4,621,597,884,730	200,939,038,467					
Sep-12	19	4,598,499,962,682	242,026,313,825					
Oct-12	21	5,095,175,588,310	242,627,408,967	$240,353,817,437				
Nov-12	21	4,547,882,974,292	216,565,855,919	236,573,009,683	$240,353,817,437			
Dec-12	20	4,744,922,754,360	237,246,137,718	234,454,661,515	236,573,009,683	$240,353,817,437		
Jan-13	21	5,079,603,817,496	241,885,896,071	233,085,097,764	234,454,661,515	236,573,009,683		
Feb-13	19	4,800,663,527,089	252,666,501,426	232,817,547,148	233,085,097,764	234,454,661,515		
Mar-13	20	4,917,701,839,870	245,885,091,993	233,038,129,346	232,817,547,148	233,085,097,764		
Apr-13	22	5,451,358,637,079	247,789,028,958	236,403,474,816	233,038,129,346	232,817,547,148		
May-13	22	5,681,788,831,869	258,263,128,721	242,772,818,178	236,403,474,816	233,038,129,346		
Jun-13	20	5,623,545,462,226	281,177,273,111	247,122,924,765	242,772,818,178	236,403,474,816		
Jul-13	22	5,083,861,509,754	231,084,614,080	245,840,392,000	247,122,924,765	242,772,818,178		
Aug-13	22	4,925,611,193,095	223,891,417,868	246,654,343,327	245,840,392,000	247,122,924,765		
Sep-13	20	4,959,197,626,713	247,959,881,336	247,844,759,285	246,654,343,327	245,840,392,000		
Oct-13	23	5,928,804,028,970	257,774,088,216	249,610,113,968	247,844,759,285	246,654,343,327		
Nov-13	20	5,182,024,612,049	259,101,230,602	250,325,083,876	249,610,113,968	247,844,759,285		
Dec-13	21	5,265,282,994,173	250,727,761,627	250,863,158,280	250,325,083,876	249,610,113,968		
Jan-14	21	5,808,700,114,288	276,604,767,347	254,064,906,990	250,863,158,280	250,325,083,876		
Feb-14	19	6,018,926,931,054	316,785,627,950	260,567,406,904	254,064,906,990	250,863,158,280		
Mar-14	21	6,068,617,342,988	288,981,778,238	261,434,574,140	260,567,406,904	254,064,906,990		
Apr-14	21	6,013,948,953,528	286,378,521,597	267,578,341,642	261,434,574,140	260,567,406,904		
May-14	21	5,265,594,447,318	250,742,592,729	270,561,805,516	267,578,341,642	261,434,574,140		
Jun-14	21	5,159,506,989,669	245,690,809,032	270,309,686,371	270,561,805,516	267,578,341,642		
Jul-14	22	5,364,099,567,460	243,822,707,612	268,759,532,970	270,309,686,371	270,561,805,516		
Aug-14	21	5,075,332,147,677	241,682,483,223	266,824,116,595	268,759,532,970	270,309,686,371		
Sep-14	21	5,507,943,363,243	262,283,017,297	268,108,033,892	266,824,116,595	268,759,532,970		
Oct-14	23	7,796,638,035,879	338,984,262,430	275,039,088,901	268,108,033,892	266,824,116,595		
Nov-14	19	5,340,847,027,697	281,097,211,984	271,073,709,349	275,039,088,901	268,108,033,892		
Dec-14	22	6,559,110,068,128	298,141,366,733	272,091,441,404	271,073,709,349	275,039,088,901		
Jan-15	20	6,185,619,541,044	309,280,977,052	274,636,158,677	272,091,441,404	271,073,709,349		
Feb-15	19	5,723,523,235,641	301,238,065,034	280,246,766,711	274,636,158,677	272,091,441,404		
Mar-15	22	6,395,046,297,249	290,683,922,602	285,246,001,552	280,246,766,711	274,636,158,677		
Apr-15	21	5,625,548,298,004	267,883,252,286	287,919,395,405	285,246,001,552	280,246,766,711		
May-15	20	5,521,351,972,386	276,067,598,619	291,739,963,782	287,919,395,405	285,246,001,552		
Jun-15	22	6,005,521,460,806	272,978,248,218	292,928,322,773	291,739,963,782	287,919,395,405		
Jul-15	22	6,493,670,315,390	295,166,832,518	288,059,719,450	292,928,322,773	291,739,963,782		
Aug-15	21	6,963,901,249,270	331,614,345,203	293,672,734,252	288,059,719,450	292,928,322,773		
Sep-15	21	6,434,496,770,897	306,404,608,138	294,590,872,186	293,672,734,252	288,059,719,450		
Oct-15	22	6,592,594,708,082	299,663,395,822	293,522,252,049	294,590,872,186	293,672,734,252		
Nov-15	20	5,822,824,015,945	291,141,200,797	292,400,378,245	293,522,252,049	294,590,872,186		
Dec-15	22	6,384,337,478,801	290,197,158,127	292,346,293,303	292,400,378,245	293,522,252,049		
Jan-16	19	6,696,059,796,055	352,424,199,792	301,739,731,915	292,346,293,303	292,400,378,245		
Feb-16	20	6,659,878,908,747	332,993,945,437	308,064,881,562	301,739,731,915	292,346,293,303		
Mar-16	22	6,161,943,754,542	280,088,352,479	308,854,893,146	308,064,881,562	301,739,731,915		
Apr-16	21	5,541,076,988,322	263,860,808,968	305,376,446,085	308,854,893,146	308,064,881,562		
May-16	21	5,693,520,415,112	271,120,019,767	298,654,854,370	305,376,446,085	308,854,893,146		
Jun-16	22	6,317,212,852,759	287,146,038,762	296,515,013,328	298,654,854,370	305,376,446,085		
Jul-16	20	5,331,797,261,269	266,589,863,063	292,840,176,355	296,515,013,328	298,654,854,370		
Aug-16	23	5,635,976,607,786	245,042,461,208	287,718,094,178	292,840,176,355	296,515,013,328		
Sep-16	21	5,942,072,286,976	282,955,823,189	286,913,501,407	287,718,094,178	292,840,176,355		
Oct-16	21	5,460,906,573,682	260,043,170,175	276,648,942,561	286,913,501,407	287,718,094,178		
Nov-16	21	6,845,287,809,886	325,966,086,185	275,868,069,311	276,648,942,561	286,913,501,407		
Dec-16	21	6,208,579,880,985	295,646,660,999	277,596,770,257	275,868,069,311	276,648,942,561		

(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)	(I)
Month	# of trading days in month	Total dollar amount of sales	Average daily dollar amount of sales (ADS)	9-month trailing moving average ADS	1-month lag of 9-month trailing moving average ADS	2-month lag of 9-month trailing moving average ADS	Forecast 9-month trailing moving average ADS	Forecast total dollar amount of sales
Jan-17	20	5,598,200,907,603	279,910,045,380	279,380,018,748	277,596,770,257	275,868,069,311		
Feb-17	19	5,443,426,609,533	286,496,137,344	281,088,476,256	279,380,018,748	277,596,770,257		
Mar-17	23	6,661,861,914,530	289,646,170,197	281,366,268,638	281,088,476,256	279,380,018,748		
Apr-17	19	5,116,714,033,499	269,300,738,605	281,667,477,031	281,366,268,638	281,088,476,256		
May-17	22	6,305,822,460,672	286,628,293,667	286,288,125,082	281,667,477,031	281,366,268,638		
Jun-17	22	6,854,993,097,601	311,590,595,346	289,469,766,433	286,288,125,082	281,667,477,031		
Jul-17	20	5,394,333,070,522	269,716,653,526	290,544,597,917	289,469,766,433	286,288,125,082		
Aug-17	23	6,206,204,906,864	269,834,995,951	284,307,810,113	290,544,597,917	289,469,766,433		
Sep-17	20	5,939,886,169,525	296,994,308,476	284,457,548,721	284,307,810,113	290,544,597,917		
Oct-17	22	6,134,529,538,894	278,842,251,768	284,338,904,987	284,457,548,721	284,307,810,113		
Nov-17	21	6,289,748,560,897	299,511,836,233	285,785,093,752	284,338,904,987	284,457,548,721		
Dec-17	20	6,672,181,323,001	333,609,066,150	290,669,859,969	285,785,093,752	284,338,904,987		
Jan-18	21	7,672,288,677,308	365,347,079,872	301,341,675,665	290,669,859,969	285,785,093,752		
Feb-18	19	8,725,420,462,639	459,232,655,928	320,519,938,139	301,341,675,665	290,669,859,969		
Mar-18	21	8,264,755,011,030	393,559,762,430	329,627,623,370	320,519,938,139	301,341,675,665		
Apr-18	21	7,490,308,402,446	356,681,352,497	339,290,367,701	329,627,623,370	320,519,938,139		
May-18	22	7,242,077,467,361	329,185,339,426	345,884,850,309	339,290,367,701	329,627,623,370		
Jun-18	21	7,936,783,802,579	377,942,085,837	354,879,047,793	345,884,850,309	339,290,367,701		
Jul-18	21	6,807,593,326,456	324,171,110,784	359,915,587,684	354,879,047,793	345,884,850,309		
Aug-18	23	7,363,115,477,823	320,135,455,558	362,207,100,942	359,915,587,684	354,879,047,793		
Sep-18	19	6,781,988,459,996	356,946,761,052	364,800,178,154	362,207,100,942	359,915,587,684		
Oct-18	23	10,133,514,482,168	440,587,586,181	373,160,234,410	364,800,178,154	362,207,100,942		
Nov-18	21	8,414,847,862,204	400,707,041,057	366,657,388,314	373,160,234,410	364,800,178,154		
Dec-18	19	9,075,221,733,736	477,643,249,144	375,999,997,948	366,657,388,314	373,160,234,410		
Jan-19	21	7,960,664,643,749	379,079,268,750	378,488,655,310	375,999,997,948	366,657,388,314		
Feb-19	19	6,676,391,653,247	351,389,034,381	380,955,732,527	378,488,655,310	375,999,997,948		
Mar-19	21	7,828,979,311,928	372,808,538,663	380,385,338,397	380,955,732,527	378,488,655,310		
Apr-19	21	6,907,923,076,080	328,948,717,909	380,916,183,633	380,385,338,397	380,955,732,527		
May-19	22	7,895,053,976,747	358,866,089,852	385,219,587,443	380,916,183,633	380,385,338,397		
Jun-19	20	7,070,583,442,058	353,529,172,103	384,839,855,338	385,219,587,443	380,916,183,633		
Jul-19	22	6,792,811,319,721	308,764,150,896	370,192,806,973	384,839,855,338	385,219,587,443		
Aug-19	22	8,059,527,400,976	366,342,154,590	366,374,486,254	370,192,806,973	384,839,855,338		
Sep-19	20	6,958,132,871,506	347,906,643,575	351,959,307,858	366,374,486,254	370,192,806,973		
Oct-19	23	7,235,982,824,882	314,607,948,908	344,795,827,875	351,959,307,858	366,374,486,254		
Nov-19	20	6,784,888,230,209	339,244,411,510	343,446,425,334	344,795,827,875	351,959,307,858		
Dec-19	21	7,252,856,724,647	345,374,129,745	340,398,157,677	343,446,425,334	344,795,827,875		
Jan-20	21	8,178,172,797,805	389,436,799,895	347,119,055,675	340,398,157,677	343,446,425,334		
Feb-20	19	8,951,554,790,521	471,134,462,659	359,593,319,320	347,119,055,675	340,398,157,677		
Mar-20	22	16,218,726,536,159	737,214,842,553	402,225,060,481	359,593,319,320	347,119,055,675		
Apr-20	21	10,289,596,902,933	489,980,804,902	422,360,244,260	402,225,060,481	359,593,319,320		
May-20	20	9,435,524,799,540	471,776,239,977	434,075,142,636	422,360,244,260	402,225,060,481		
Jun-20	22	12,093,857,552,130	549,720,797,824	456,498,937,553	434,075,142,636	422,360,244,260		
Jul-20	22	10,355,334,352,448	470,697,016,020	473,842,167,232	456,498,937,553	434,075,142,636		
Aug-20	21	9,763,364,099,611	464,922,099,981	487,806,354,840	473,842,167,232	456,498,937,553		
Sep-20	21	11,545,564,207,158	549,788,771,769	510,519,092,842	487,806,354,840	473,842,167,232		
Oct-20	22	10,052,383,314,951	456,926,514,316	518,017,950,000	510,519,092,842	487,806,354,840		
Nov-20	20	11,039,477,432,965	551,973,871,648	527,000,106,555	518,017,950,000	510,519,092,842		
Dec-20	22	12,172,302,216,779	553,286,464,399	506,563,620,093	527,000,106,555	518,017,950,000		
Jan-21	19	12,396,479,814,996	652,446,306,052	524,615,342,443	506,563,620,093	527,000,106,555		
Feb-21	19	12,103,659,666,497	637,034,719,289	542,977,395,700	524,615,342,443	506,563,620,093		
Mar-21	23	16,485,012,205,966	716,739,661,129	561,535,047,178	542,977,395,700	524,615,342,443		
Apr-21	21	11,602,282,119,601	552,489,624,743	570,623,114,814	561,535,047,178	542,977,395,700		
May-21	20	11,729,455,630,914	586,472,781,546	584,128,746,099	570,623,114,814	561,535,047,178		
Jun-21	22	13,038,812,281,463	592,673,285,521	588,893,692,071	584,128,746,099	570,623,114,814		
Jul-21	21	11,623,478,100,180	553,498,957,151	599,623,963,498	588,893,692,071	584,128,746,099		
Aug-21	22	11,493,350,851,643	522,425,038,711	596,340,759,838	599,623,963,498	588,893,692,071		
Sep-21	21	12,312,072,157,576	586,289,150,361	600,007,724,945	596,340,759,838	599,623,963,498		
Oct-21	21	12,011,570,888,110	571,979,566,100	591,066,976,061	600,007,724,945	596,340,759,838		
Nov-21	21	13,996,377,941,116	666,494,187,672	594,340,250,326	591,066,976,061	600,007,724,945		

Dec-21	22	15,494,373,840,971	704,289,720,044	592,956,923,539	594,340,250,326	591,066,976,061	.....	.....	.....
Jan-22	20	16,002,717,162,409	800,135,858,120	620,473,171,692	592,956,923,539	594,340,250,326	.....	.....	.....
Feb-22	19	14,483,452,476,259	762,286,972,435	640,008,081,791	620,473,171,692	592,956,923,539	.....	.....	.....
Mar-22	23	17,089,275,084,128	743,011,960,179	656,712,378,975	640,008,081,791	620,473,171,692	.....	.....	.....
Apr-22	20	13,123,148,685,917	656,157,434,296	668,118,876,435	656,712,378,975	640,008,081,791	.....	.....	.....
May-22	21	15,039,352,606,836	716,159,647,945	689,644,944,128	668,118,876,435	656,712,378,975	.....	.....	.....
Jun-22	21	13,021,062,095,851	620,050,575,993	693,396,213,643	689,644,944,128	668,118,876,435	.....	.....	.....
Jul-22	20	10,112,087,348,637	505,604,367,432	686,021,191,568	693,396,213,643	689,644,944,128	.....	.....	.....
Aug-22	23	11,593,039,396,644	504,045,191,158	667,971,303,067	686,021,191,568	693,396,213,643	.....	.....	.....
Sep-22	21	12,052,452,021,792	573,926,286,752	653,486,477,146	667,971,303,067	686,021,191,568	.....	.....	.....
Oct-22	21	11,962,224,366,908	569,629,731,758	627,874,685,327	653,486,477,146	667,971,303,067	.....	.....	.....
Nov-22	21	11,900,801,868,077	566,704,850,861	606,143,338,486	627,874,685,327	653,486,477,146	.....	.....	.....
Dec-22	21	.....	.....	.....	606,143,338,486	627,874,685,327	$586,239,425,995	$12,311,027,945,895	
Jan-23	20	.....	.....	.....	.....	606,143,338,486	586,239,425,995	11,724,788,519,900	
Feb-23	19	.....	.....	.....	.....	.....	586,239,425,995	11,138,549,093,905	
Mar-23	23	.....	.....	.....	.....	.....	586,239,425,995	13,483,506,797,885	
Apr-23	19	.....	.....	.....	.....	.....	586,239,425,995	11,138,549,093,905	
May-23	22	.....	.....	.....	.....	.....	586,239,425,995	12,897,267,371,890	
Jun-23	21	.....	.....	.....	.....	.....	586,239,425,995	12,311,027,945,895	
Jul-23	20	.....	.....	.....	.....	.....	586,239,425,995	11,724,788,519,900	
Aug-23	23	.....	.....	.....	.....	.....	586,239,425,995	13,483,506,797,885	

Figure A.
Aggregate Dollar Amount of Sales Subject to Exchange Act Sections 31(b) and 31(c)[1]
Methodology Developed in Consultation With OMB and CBO
(Dashed Line Indicates Forecast Values)



[1]Forecasted line is not smooth because the number of trading days varies by month.

[FR Doc. 2023–01578 Filed 1–25–23; 8:45 am]
BILLING CODE 8011–01–C

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–96725; File No. 4–698]

Joint Industry Plan; Notice of Designation of a Longer Period for Commission Action on a Proposed Amendment to the National Market System Plan Governing the Consolidated Audit Trail, as Modified by Partial Amendment No. 1

January 20, 2023.

On May 13, 2022, the Operating Committee for Consolidated Audit Trail, LLC (''CAT LLC''), on behalf of the Participants [1] to the National Market System Plan Governing the Consolidated Audit Trail (the ''CAT NMS Plan''),[2] filed with the Securities and Exchange Commission (''Commission''), pursuant to section 11A of the Securities Exchange Act of 1934 (''Act'') [3] and Rule 608 of Regulation National Market System (''NMS'') thereunder,[4] a proposed amendment to the CAT NMS Plan (''Proposed Amendment'') to implement a revised funding model (''Executed Share Model'') for the consolidated audit trail (''CAT'') and to establish a fee schedule for Participant CAT fees in accordance with the Executed Share Model.[5] The Proposed Amendment was published for comment in the **Federal Register** on June 1, 2022.[6]

On August 30, 2022, the Commission instituted proceedings pursuant to Rule 608(b)(2)(i) of Regulation NMS [7] to determine whether to approve or disapprove the Proposed Amendment with any changes or subject to any conditions the Commission deems necessary or appropriate.[8] On November 15, 2022, CAT LLC submitted a letter to propose a partial amendment of the Proposed Amendment (''Partial Amendment No. 1'') and to respond to the Commission's solicitation of comments in the OIP and comments received on the OIP.[9] On November 23, 2022, pursuant to Rule 608(b)(2)(i) of Regulation NMS,[10] the Commission extended the period within which to conclude proceedings regarding the Proposed Amendment to 240 days from the date of publication of the Notice.[11] Notice of the filing of Partial Amendment No. 1 was published for comment in the **Federal Register** on December 2, 2022.[12]

Rule 608(b)(2)(ii) of Regulation NMS provides that the time for conclusion of proceedings to determine whether a national market system plan or proposed amendment should be disapproved may be extended for an additional period up to 60 days (up to 300 days from the date of notice publication) if the Commission determines that a longer period is appropriate and publishes the reasons for such determination or the plan participants consent to the longer period.[13] The 240th day after publication of the Notice for the Proposed Amendment is January 27, 2023. The Commission is extending this 240-day period.

The Commission finds that it is appropriate to designate a longer period within which to conclude proceedings regarding the Proposed Amendment, as modified by Partial Amendment No. 1, so that it has sufficient time to consider the proposed modifications and the justifications provided in support thereof, and the comments received. Accordingly, pursuant to Rule 608(b)(2)(ii) of Regulation NMS,[14] the Commission designates March 28, 2023, as the date by which the Commission shall conclude the proceedings to determine whether to approve or disapprove the Proposed Amendment, as modified by Partial Amendment No. 1 (File No. 4–698).

By the Commission.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–01529 Filed 1–25–23; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF STATE

[Public Notice 11978]

Notice of Determinations; Culturally Significant Objects Being Imported for Exhibition—Determinations: ''The Sassoons'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects being imported from abroad pursuant to agreements with their foreign owners or custodians for temporary display in the exhibition ''The Sassoons'' at The Jewish Museum, New York, New York; the exhibition ''Styled by Sargent'' at the Museum of Fine Arts, Boston, in Boston, Massachusetts; and at possible additional exhibitions or venues yet to be determined, are of cultural significance, and, further, that their temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Elliot Chiu, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, 2200 C Street NW (SA–5), Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat.

[1] The Participants are: BOX Exchange LLC, Cboe BYX Exchange, Inc., Cboe BZX Exchange, Inc., Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc., Cboe C2 Exchange, Inc., Cboe Exchange, Inc., Financial Industry Regulatory Authority, Inc., Investors Exchange LLC, Long-Term Stock Exchange, Inc., MEMX LLC, Miami International Securities Exchange, LLC, MIAX Emerald, LLC, MIAX PEARL, LLC, Nasdaq BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC, Nasdaq PHLX LLC, The Nasdaq Stock Market LLC, New York Stock Exchange LLC, NYSE American LLC, NYSE Arca, Inc., NYSE Chicago, Inc., and NYSE National, Inc. (collectively, the ''Participants'').

[2] The CAT NMS Plan is a national market system plan approved by the Commission pursuant to section 11A of the Act and the rules and regulations thereunder. *See* Securities Exchange Act Release No. 79318 (Nov. 15, 2016), 81 FR 84696 (Nov. 23, 2016). The CAT NMS Plan functions as the limited liability company agreement of the jointly owned limited liability company formed under Delaware state law through which the Participants conduct the activities of the CAT (''Company''). On August 29, 2019, the Participants replaced the CAT NMS Plan in its entirety with the limited liability company agreement of a new limited liability company named Consolidated Audit Trail, LLC, which became the Company. The latest version of the CAT NMS Plan is available at *https://catnmsplan.com/about-cat/cat-nms-plan.*

[3] 15 U.S.C 78k–1.

[4] 17 CFR 242.608.

[5] *See* Letter from Michael Simon, CAT NMS Plan Operating Committee Chair, to Vanessa Countryman, Secretary, Commission (May 13, 2022).

[6] *See* Securities Exchange Act Release No. 94984 (May 25, 2022), 87 FR 33226 (June 1, 2022) (''Notice''). Comments received in response to the Notice can be found on the Commission's website at *https://www.sec.gov/comments/4-698/4-698-a.htm.*

[7] 17 CFR 242.608(b)(2)(i).

[8] *See* Securities Exchange Act Release No. 95634 (Aug. 30, 2022), 87 FR 54558 (Sept. 6, 2022) (''OIP''). Comments received in response to the OIP can be found on the Commission's website at *https://www.sec.gov/comments/4-698/4-698-a.htm.*

[9] *See* Letter from Michael Simon, CAT NMS Plan Operating Committee Chair, to Vanessa Countryman, Secretary, Commission (Nov. 15, 2022).

[10] *See* 17 CFR 242.608(b)(2)(i).

[11] *See* Securities Exchange Act Release No. 96382 (Nov. 23, 2022), 87 FR 73366 (Nov. 29, 2022).

[12] *See* Securities Exchange Act Release No. 96394 (Nov. 28, 2022), 87 FR 74183 (Dec. 2, 2022). Comments received in response to Partial Amendment No. 1 can be found on the Commission's website at *https://www.sec.gov/comments/4-698/4-698-a.htm.*

[13] *See* 17 CFR 242.608(b)(2)(ii).

[14] *Id.*

985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000, and Delegation of Authority No. 523 of December 22, 2021.

Stacy E. White,

Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2023–01588 Filed 1–25–23; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 11977]

Notice of Determinations; Additional Culturally Significant Objects Being Imported for Exhibition—Determinations: ''Juan de Pareja, Afro Hispanic Painter'' Exhibition

SUMMARY: On February 8, 2022, notice was published on page 7230 of the **Federal Register** (volume 87, number 26) of determinations pertaining to a certain object to be included in an exhibition entitled ''Juan de Pareja.'' Notice is hereby given of the following determinations: I hereby determine that certain additional objects being imported from abroad pursuant to agreements with their foreign owners or custodians for temporary display in the aforesaid exhibition, now retitled ''Juan de Pareja, Afro Hispanic Painter,'' at The Metropolitan Museum of Art, New York, New York, and at possible additional exhibitions or venues yet to be determined, are of cultural significance, and, further, that their temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Elliot Chiu, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, 2200 C Street NW (SA–5), Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000, and Delegation of Authority No. 523 of December 22, 2021.

Stacy E. White,

Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2023–01587 Filed 1–25–23; 8:45 am]

BILLING CODE 4710–05–P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 541 (Sub-No. 3X)]

Portland & Western Railroad, Inc.—Abandonment Exemption—in Washington County, Or.

Portland & Western Railroad, Inc. (PNWR), has filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments* to abandon the rail line extending between milepost 10.28 in Forest Grove, Or., and milepost 4.68 in Hillsboro, Or. (the Line). PNWR owns a perpetual freight easement for the Line, and the underlying property is owned by the Oregon Department of Transportation. There are four stations on the Line: Forest Grove (milepost 10.28), Cornelius (milepost 7.8), Hillsboro (milepost 4.7) and Forest Grove Junction (milepost 4.68). The Line traverses U.S. Postal Service Zip Codes 97116, 97113, 97123, and 97124, entirely in Washington County, Or.

PNWR has certified that: (1) No local or overhead traffic has moved over the Line since November 2015; (2) as the Line is stub-ended, there is no overhead traffic to be rerouted; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court, or has been decided in favor of a complainant within the two-year period; and (4) the requirements at 49 CFR 1105.7(b) and 1105.8(c) (notice of environmental and historic reports),[1] 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to government agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received,[2] this exemption will be effective on February 25, 2023, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues must be filed by February 3, 2023.[3] Formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2) and interim trail use/rail banking requests under 49 CFR 1152.29 must be filed by February 6, 2023.[4] Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by February 15, 2023.

All pleadings, referring to Docket No. AB 541 (Sub-No. 3X), must be filed with the Surface Transportation Board either via e-filing on the Board's website or in writing addressed to 395 E Street SW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on PNWR's representative, Justin J. Marks, Clark Hill PLC, 1001 Pennsylvania Ave. NW, Suite 1300 South, Washington, DC 20004.

If the verified notice contains false or misleading information, the exemption is void ab initio.

PNWR has filed a combined environmental and historic report that addresses the potential effects, if any, of the abandonment on the environment and historic resources. OEA will issue a Draft Environmental Assessment (Draft EA) by January 31, 2023. The Draft EA will be available to interested persons on the Board's website, by writing to OEA, or by calling OEA at (202) 245–0294. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877–8339. Comments on environmental or historic

[1] On January 20, 2023, PNWR filed a supplement certifying that it complied with the requirements of 49 CFR 1105.11.

[2] Persons interested in submitting an OFA must first file a formal expression of intent to file an offer, indicating the type of financial assistance they wish to provide (*i.e.,* subsidy or purchase) and demonstrating that they are preliminarily financially responsible. *See* 49 CFR 1152.27(c)(2)(i).

[3] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Serv. Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[4] Filing fees for OFAs and trail use requests can be found at 49 CFR 1002.2(f)(25) and (27), respectively.

preservation matters must be filed within 15 days after the Draft EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), PNWR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the Line. If consummation has not been effected by PNWR's filing of a notice of consummation by January 26, 2024, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available at *www.stb.gov.*

By the Board, Mai T. Dinh, Director, Office of Proceedings.

Stefan Rice,

Clearance Clerk.

[FR Doc. 2023–01580 Filed 1–25–23; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Petition for Exemption From the Federal Motor Vehicle Theft Prevention Standard; General Motors, LLC

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Grant of petition for exemption.

SUMMARY: This document grants in full the General Motors, LLC's (GM) petition for exemption from the Federal Motor Vehicle Theft Prevention Standard (theft prevention standard) for its Buick Envista line beginning in model year (MY) 2024. The petition is granted because the agency has determined that the antitheft device to be placed on the line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the theft prevention standard.

DATES: The exemption granted by this notice is effective beginning with the 2024 model year.

FOR FURTHER INFORMATION CONTACT: Carlita Ballard, Office of International Policy, Fuel Economy, and Consumer Programs, NHTSA, West Building, W43–439, NRM–310, 1200 New Jersey Avenue SE, Washington, DC 20590. Ms. Ballard's phone number is (202) 366–5222. Her fax number is (202) 493–2990.

SUPPLEMENTARY INFORMATION: Under 49 U.S.C. chapter 331, the Secretary of Transportation (and the National Highway Traffic Safety Administration (NHTSA) by delegation) is required to promulgate a theft prevention standard to provide for the identification of certain motor vehicles and their major replacement parts to impede motor vehicle theft. NHTSA promulgated regulations at 49 CFR part 541 (theft prevention standard) to require parts-marking for specified passenger motor vehicles and light trucks. Pursuant to 49 U.S.C. 33106, manufacturers that are subject to the parts-marking requirements may petition the Secretary of Transportation for an exemption for a line of passenger motor vehicles equipped with an antitheft device as standard equipment that the Secretary decides is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements. In accordance with this statute, NHTSA promulgated 49 CFR part 543, which establishes the process through which manufacturers may seek an exemption from the theft prevention standard.

49 CFR 543.5 provides general submission requirements for petitions and states that each manufacturer may petition NHTSA for an exemption of one vehicle line per model year. Among other requirements, manufacturers must identify whether the exemption is sought under section 543.6 or section 543.7. Under section 543.6, a manufacturer may request an exemption by providing specific information about the antitheft device, its capabilities, and the reasons the petitioner believes the device to be as effective at reducing and deterring theft as compliance with the parts-marking requirements. Section 543.7 permits a manufacturer to request an exemption under a more streamlined process if the vehicle line is equipped with an antitheft device (an ''immobilizer'') as standard equipment that complies with one of the standards specified in that section.[1]

Section 543.8 establishes requirements for processing petitions for exemption from the theft prevention standard. As stated in section 543.8(a), NHTSA processes any complete exemption petition. If NHTSA receives an incomplete petition, NHTSA will notify the petitioner of the deficiencies. Once NHTSA receives a complete petition the agency will process it and, in accordance with section 543.8(b), will grant the petition if it determines that, based upon substantial evidence, the standard equipment antitheft device is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of Part 541.

Section 543.8(c) requires NHTSA to issue its decision either to grant or to deny an exemption petition not later than 120 days after the date on which a complete petition is filed. If NHTSA does not make a decision within the 120-day period, the petition shall be deemed to be approved and the manufacturer shall be exempt from the standard for the line covered by the petition for the subsequent model year.[2] Exemptions granted under part 543 apply only to the vehicle line or lines that are subject to the grant and that are equipped with the antitheft device on which the line's exemption was based, and are effective for the model year beginning after the model year in which NHTSA issues the notice of exemption, unless the notice of exemption specifies a later year.

Sections 543.8(f) and (g) apply to the manner in which NHTSA's decisions on petitions are to be made known. Under section 543.8(f), if the petition is sought under section 543.6, NHTSA publishes a notice of its decision to grant or deny the exemption petition in the **Federal Register** and notifies the petitioner in writing. Under section 543.8(g), if the petition is sought under section 543.7, NHTSA notifies the petitioner in writing of the agency's decision to grant or deny the exemption petition.

This grant of petition for exemption considers General Motors, LLC's (GM) petition for its Buick Envista vehicle line beginning in MY 2024.

I. Specific Petition Content Requirements Under 49 CFR 543.6

Pursuant to 49 CFR part 543, *Exemption from Vehicle Theft Prevention,* GM petitioned for an exemption for its specified vehicle line from the parts-marking requirements of the theft prevention standard, beginning

[1] 49 CFR 543.7 specifies that the manufacturer must include a statement that their entire vehicle line is equipped with an immobilizer that meets one of the flowing standards:

(1) The performance criteria (subsections 8 through 21) of C.R.C, c. 1038.114, Theft Protection and Rollaway Prevention (in effect March 30, 2011), as excerpted in appendix A of [part 543];

(2) National Standard of Canada CAN/ULC–S338–98, Automobile Theft Deterrent Equipment and Systems: Electronic Immobilization (May 1998);

(3) United Nations Economic Commission for Europe (UN/ECE) Regulation No. 97 (ECE R97), Uniform Provisions Concerning Approval of Vehicle Alarm System (VAS) and Motor Vehicles with Regard to Their Alarm System (AS) in effect August 8, 2007; or

(4) UN/ECE Regulation No. 116 (ECE R116), Uniform Technical Prescriptions Concerning the Protection of Motor Vehicles Against Unauthorized Use in effect on February 10, 2009.

[2] 49 U.S.C. 33106(d).

in MY 2024. GM petitioned under 49 CFR 543.6, *Petition: Specific content requirements,* which, as described above, requires manufacturers to provide specific information about the antitheft device installed as standard equipment on all vehicles in the line for which an exemption is sought, the antitheft device's capabilities, and the reasons the petitioner believes the device to be as effective at reducing and deterring theft as compliance with the parts-marking requirements.

More specifically, section 543.6(a)(1) requires petitions to include a statement that an antitheft device will be installed as standard equipment on all vehicles in the line for which the exemption is sought. Under section 543.6(a)(2), each petition must list each component in the antitheft system, and include a diagram showing the location of each of those components within the vehicle. As required by section 543.6(a)(3), each petition must include an explanation of the means and process by which the device is activated and functions, including any aspect of the device designed to: (1) facilitate or encourage its activation by motorists; (2) attract attention to the efforts of an unauthorized person to enter or move a vehicle by means other than a key; (3) prevent defeating or circumventing the device by an unauthorized person attempting to enter a vehicle by means other than a key; (4) prevent the operation of a vehicle which an unauthorized person has entered using means other than a key; and (5) ensure the reliability and durability of the device.[3]

In addition to providing information about the antitheft device and its functionality, petitioners must also submit the reasons for their belief that the antitheft device will be effective in reducing and deterring motor vehicle theft, including any theft data and other data that are available to the petitioner and form a basis for that belief,[4] and the reasons for their belief that the agency should determine that the antitheft device is likely to be as effective as compliance with the parts-marking requirements of part 541 in reducing and deterring motor vehicle theft. In support of this belief, the petitioners should include any statistical data that are available to the petitioner and form the basis for the petitioner's belief that a line of passenger motor vehicles equipped with the antitheft device is likely to have a theft rate equal to or less than that of passenger motor vehicles of the same, or a similar, line which have parts marked in compliance with Part 541.[5]

The following sections describe GM's petition information provided pursuant to 49 CFR part 543, *Exemption from Vehicle Theft Prevention.* To the extent that specific information in GM's petition is subject to a properly filed confidentiality request, that information was not disclosed as part of this notice.[6]

II. GM's Petition for Exemption

In a petition originally dated September 12, 2022, GM requested an exemption from the parts-marking requirements of the theft prevention standard for the Buick Envista vehicle line beginning with MY 2024.

In its petition, GM provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for its Buick Envista vehicle line. Key components of the antitheft device include an electronically-coded ignition key, PASS-Key III+ controller, integrated within the body control module (BCM), engine control module (ECM), passive entry passive start (PEPS) module, a radio frequency (RF) receiver, three passive low frequency antennas, and an active low-frequency antenna. GM stated that the PASS-Key III+ immobilizer device is designed to be active at all times without direct intervention by the vehicle operator.

Pursuant to section 543.6(a)(3), GM explained that its PASS-Key III+ system is activated immediately after the ignition has been turned off and the key has been removed and deactivation of the antitheft device occurs automatically when the engine is started.

GM stated that the Buick Envista vehicle line will be installed with the PASS-Key III+ as standard equipment on its entire vehicle line. GM stated that with its ''keyless'' ignition system, an electronic key fob performs normal remote keyless entry functions and communicates with the vehicle without direct owner intervention. Specifically, during operation of the vehicle, when the owner presses the engine start/stop switch, the vehicle transmits a randomly generated challenge and vehicle identifier within the passenger compartment of the vehicle via three low-frequency antennas, controlled by the PEPS module. The electronic key receives the data and if the vehicle identifier matches that of the vehicle, the electronic key will calculate the response to the vehicle using the challenge and secret information shared between the key and the vehicle. The electronic key then transmits the response via a radio frequency channel to a vehicle mounted receiver, conveying the information to the PASS-Key III+ control module. The PASS-Key III+ control module compares the received response with an internally calculated response. If the values match, the device will allow the vehicle to enter functional modes and transmit a fixed code pre-release password to the engine controller over the serial data bus, and enable computation and communication of a response to any valid challenge received from the engine controller. If a valid key is not detected, the system will not transmit a fixed code pre-release password to the engine controller and fuel will not be delivered to the engine and the starter will not be enabled, so the vehicle will be immobilized.

As required in section 543.6(a)(3)(v), GM provided information on the reliability and durability of its proposed device as required by section. To ensure reliability and durability of the device, GM followed its own standards in assessing reliability and conducted tests to validate the integrity, durability and reliability of the PASS-Key III+ device, including tests for high temperature storage, low temperature storage, thermal shock, humidity, frost, salt fog, flammability and others. GM further stated that the design and assembly processes of the PASS-Key III+ subsystem and components are validated for 10 years of vehicle life and 150,000 miles of performance.

GM believes that its antitheft device will be as effective as or more effective than the parts-marking requirement in reducing and deterring vehicle theft, and in accordance with 49 CFR 543.6(a)(5), GM referenced data provided by the American Automobile Manufacturers Association (AAMA) in support of the effectiveness of GM's PASS-Key devices in reducing and deterring motor vehicle theft, and stated that the PASS-Key III+ device has been designed to enhance the functionality and theft protection provided by its first, second and third generation PASS-Key, PASS-Key II, and PASS-Key III devices. Specifically, GM stated that data which provide the basis for GM's confidence that the PASS-Key III+ system will be effective in reducing and deterring motor vehicle theft are contained in the response of the American Automobile Manufacturers Association (AAMA) to Docket 97–042; Notice I (NHTSA Request for Comments on its preliminary Report to Congress on the effects of the Anti Car Theft Act of 1992 and the Motor Vehicle Theft Law

[3] 49 CFR 543.6(a)(3).

[4] 49 CFR 543.6(a)(4).

[5] 49 CFR 543.6(a)(5).

[6] 49 CFR 512.20(a).

Enforcement Act of 1984). In the Report to Congress, AAMA stated the more recent antitheft systems are more effective in reducing auto theft.

GM also stated that theft rate data have indicated a decline in theft rates for vehicle lines equipped with comparable devices that have received full exemptions from the parts-marking requirements. GM stated that the theft rate data, as provided by the Federal Bureau of Investigation's National Crime Information Center (NCIC) and compiled by the agency, show that theft rates are lower for exempted GM models equipped with the PASS-Key-like systems than the theft rates for earlier models with similar appearance and construction that were parts-marked.

GM stated that the theft rate data from NHTSA's vehicle theft rate search were used to plot the Chevrolet Equinox theft rate for the available years 2005–2014. GM stated that the Equinox is an SUV of similar size which is equipped with the PASS-Key III+ system. GM also stated that the theft rate dropped after the parts-marking exemption was granted in 2009.

GM believes that the agency should find that inclusion of PASS-Key III+ as standard equipment on the 2024 Buick Envista vehicle line is sufficient to qualify this vehicle line for full exemption from 49 CFR part 541 requirements. This belief is supported not only by GM's proven success in reducing the theft rates of its carlines, but also by the high value the agency itself places on ''passive activation'' as a functional dimension of theft deterrent systems.

Based on the performance of the PASS-Key, PASS-Key II, and PASS-Key III devices on other GM models, and the advanced technology utilized in PASS-Key III+, GM believes that the PASS-Key III+ device will be more effective in deterring theft than the parts-marking requirements of 49 CFR part 541.

III. Decision To Grant the Petition

Pursuant to 49 U.S.C. 33106 and 49 CFR 543.8(b), the agency grants a petition for exemption from the parts-marking requirements of part 541, either in whole or in part, if it determines that, based upon substantial evidence, the standard equipment antitheft device is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of part 541. The agency finds GM has provided adequate reasons for its belief that the antitheft device for its vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the theft prevention standard. This conclusion is based on the information GM provided about its antitheft device. NHTSA believes, based on GM's supporting evidence, the antitheft device described for its vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the theft prevention standard.

The agency concludes that GM's antitheft device will provide four of the five types of performance features listed in section 543.6(a)(3): [7] promoting activation; preventing defeat or circumvention of the device by unauthorized persons; preventing operation of the vehicle by unauthorized entrants; and ensuring the reliability and durability of the device.

The agency notes that 49 CFR part 541, Appendix A–1, identifies those lines that are exempted from the Theft Prevention Standard for a given model year. 49 CFR 543.8(f) contains publication requirements incident to the disposition of all part 543 petitions. Advanced listing, including the release of future product nameplates, the beginning model year for which the petition is granted and a general description of the antitheft device is necessary in order to notify law enforcement agencies of new vehicle lines exempted from the parts-marking requirements of the Theft Prevention Standard.

If GM decides not to use the exemption for its requested vehicle line, the manufacturer must formally notify the agency. If such a decision is made, the line must be fully marked as required by 49 CFR 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if GM wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption. Section 543.8(d) states that a part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the antitheft device on which the line's exemption is based. Further, section 543.10(c)(2) provides for the submission of petitions ''to modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in the exemption.''

[7] See, *e.g.,* 70 FR 74107 (Dec. 14, 2005). NHTSA has previously concluded that the lack of a visual or audio alarm has not prevented some antitheft devices from being effective protection against theft, where the theft data indicate a decline in theft rates for vehicle lines that have been equipped with devices similar to that what the petitioner is proposing to use.

The agency wishes to minimize the administrative burden that section 543.10(c)(2) could place on exempted vehicle manufacturers and itself. The agency did not intend in drafting part 543 to require the submission of a modification petition for every change to the components or design of an antitheft device. The significance of many such changes could be de minimis. Therefore, NHTSA suggests that if GM contemplates making any changes, the effects of which might be characterized as de minimis, it should consult the agency before preparing and submitting a petition to modify.

For the foregoing reasons, the agency hereby grants in full GM's petition for exemption for the Buick Envista vehicle line from the parts-marking requirements of 49 CFR part 541, beginning with its MY 2024 vehicles.

Issued under authority delegated in 49 CFR 1.95 and 501.8.

Raymond R. Posten,

Associate Administrator for Rulemaking.

[FR Doc. 2023–01524 Filed 1–25–23; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request Relating to FHA Loan Limits To Determine Average Area Purchase Prices

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning the collection of information required to obtain the benefit of using revisions to FHA loan limits to determine average area purchase prices.

DATES: Written comments should be received on or before March 27, 2023 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to *pra.comments@irs.gov.* Include OMB control number 1545–1877 or Average Area Purchase Price

Safe Harbors and Nationwide Purchase Prices under section 143.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the revenue procedure should be directed to Kerry Dennis at (202) 317–5751, or at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet, at *Kerry.L.Dennis@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Average Area Purchase Price Safe Harbors and Nationwide Purchase Prices under section 143.

OMB Number: 1545–1877.

Regulatory Number: Revenue Procedure 2022–17.

Abstract: The revenue procedure under this collection provides issuers of qualified mortgage bonds, as defined in section 143(a) of the Internal Revenue Code (Code), and issuers of mortgage credit certificates, as defined in section 25(c), with (1) the nationwide average purchase price for residences located in the United States, and (2) average area purchase price safe harbors for residences located in statistical areas in each state, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, the Virgin Islands, and Guam.

Current Actions: There are no changes to burden.

Type of Review: Extension of a currently approved collection.

Affected Public: State, Local, and Tribal Governments.

Estimated Number of Respondents: 60.

Estimated Time per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 15 hours.

The following paragraph applies to all the collections of information covered by this notice.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained if their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 20, 2023.

Kerry L. Dennis,

Tax Analyst.

[FR Doc. 2023–01544 Filed 1–25–23; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Extension of Information Collection Request Submitted for Public Comment, Comment Request for the IRS Taxpayer Burden Surveys

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning the IRS Taxpayer Burden Surveys to be fielded between 6/1/2023 and 5/31/2025.

DATES: Written comments should be received on or before March 27, 2023 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224 or by email to *pra.comments@irs.gov.* Please reference the information collection's ''OMB number 1545–2212 in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Sara Covington, (202)317–5744, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet, at *sara.l.covington@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: IRS Taxpayer Burden Surveys.

OMB Number: 1545–2212.

Regulatory Number: N/A.

Abstract: Each year, individual taxpayers in the United States submit more than 140 million tax returns to the Internal Revenue Service (IRS). The IRS uses the information in these returns, recorded on roughly one hundred distinct forms and supporting schedules, to administer a tax system whose rules span thousands of pages. Managing such a complex and broad-based tax system is costly but represents only a fraction of the total burden of the tax system. Equally, if not more burdensome, is the time and out-of-pocket expenses that taxpayers spend in order to comply with tax laws and regulations.

Changes in tax regulations, tax administration, tax preparation methods, and taxpayer behavior continue to alter the amount and distribution of taxpayer burden. Data from updated surveys will better reflect the current tax rules and regulations, the increased usage of tax preparation software, increased efficiency of such software, changes in tax preparation regulations, the increased use of electronic filing, the behavioral response of taxpayers to the tax system, the changing use of services, both IRS and external, and related information collection needs.

Current Actions: The Taxpayer Burden Surveys allow RAAS to update and validate the IRS Taxpayer Burden Model which is used to provide estimates for consolidated taxpayer segments, such as OMB numbers 1545–0074, 1545–0123, and 1545–0047. This form is being submitted for revision purposes.

Data Collections and Burden Hours Covered Under This Clearance Request:

Table	Taxpayer segment	Period 1 6/1/2023–5/31/2024	Period 2 6/1/2024–5/31/2025	Period 3 6/1/2025–5/31/2026
1	Individual Taxpayers	4,232	4,234	4,234
2	Business Entities	2,610	5,220	870
3	Tax-Exempt Organizations	645	1,504	324

Table	Taxpayer segment	Period 1 6/1/2023–5/31/2024	Period 2 6/1/2024–5/31/2025	Period 3 6/1/2025–5/31/2026
4	Trusts and Estate Form 1041 Filers	1,087	1,088	0
5	Form 709 Gift Tax Return Filers	1,088	362	0
6	Form 706 Estate Tax Return Filers	0	0	1,450
7	Excise Tax Return Filers	0	1,088	362
8	Employers	1,450	725	0
9	Information Return Filers	0	0	5,800
10	Pension Plan Return Filers	1,450	0	0
Total Hours		12,592	14,221	13,040

Type of Review: Revision of a currently approved collection.

Affected Public: Individual, Business or other for-profit organizations.

Estimated Total Number of Respondents: 140,658.

Estimated Time per Respondent: 17 min.

Estimated Total Burden Hours: 39,853.

The following paragraph applies to all the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained if their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Comments submitted in response to this notice will be summarized and/or included in the ICR for OMB approval of the extension of the information collection; they will also become a matter of public record.

Approved: January 23, 2023.

Sara L. Covington,

IRS Tax Analyst.

[FR Doc. 2023–01574 Filed 1–25–23; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Alcohol and Tobacco Tax and Trade Bureau Information Collection Request

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury will submit the following information collection requests 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. The public is invited to submit comments on these requests.

DATES: Comments should be received on or before February 27, 2023 to be assured of consideration.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Copies of the submissions may be obtained from Melody Braswell by emailing *PRA@treasury.gov,* calling (202) 622–1035, or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

Alcohol and Tobacco Tax and Trade Bureau (TTB), Treasury

Title: Recordkeeping for Tobacco Products Removed in Bond from a Manufacturer's Premises for Experimental Purposes—*27 CFR 40.232(e).*

OMB Control Number: 1513–0110.

Abstract: The IRC at *26 U.S.C. 5704(a)* provides that manufacturers of tobacco products may remove tobacco products for experimental purposes without payment of Federal excise tax, as prescribed by regulation. Under that authority, the TTB regulations at *27 CFR 40.232(e)* require the keeping of certain usual and customary business records regarding the description, shipment, use, and disposition of tobacco products removed for experimental purposes outside of the factory. These records are subject to TTB inspection and are necessary to protect the revenue, as they allow TTB to account for the lawful experimental use and disposition of nontax paid tobacco products, and to detect diversion of such products into the domestic market.

Current Actions: There are no program changes or adjustments associated with this information collection, and TTB is submitting it for extension purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profits.

Number of Respondents: 235.

Average Responses per Respondent: 1 (one).

Number of Responses: 235.

Average Per-Response and Total Burden: As this information collection consists of usual and customary records kept by respondents during the normal course of business, under *5 CFR 1320.3(b)(2),* there is no additional burden on respondents associated with this information collection.

Authority: 44 U.S.C. 3501 *et seq.*

Melody Braswell,

Treasury PRA Clearance Officer.

[FR Doc. 2023–01581 Filed 1–25–23; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Multiple Internal Revenue Service (IRS) Information Collection Requests

AGENCY: Departmental Offices, Department of the Treasury.

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of the Treasury will submit the following information collection requests 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. The public is invited to submit comments on these requests.

DATES: Comments should be received on or before February 27, 2023 to be assured of consideration.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Copies of the submissions may be obtained from Melody Braswell by emailing *PRA@treasury.gov,* calling (202) 622–1035, or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

Internal Revenue Service

1. Title: Settlement Funds.
OMB Number: 1545–1299.
Form Number: TD 8459.
Abstract: This final regulation prescribes reporting requirements for settlement funds, which are funds established or approved by a governmental authority to resolve or satisfy certain liabilities, such as those involving tort or breach of contract. The final regulation relates to the tax treatment of transfers to these funds, the taxation of income earned by the funds, and the tax treatment of distributions made by the funds.
Type of Review: Extension of a currently approved collection.
Affected Public: Individuals, business or other for-profit organizations, not for-profit institutions, farms and Federal, state, local or tribal governments.
Estimated Number of Respondents: 2,750.
Estimated Time per Respondent: 1.288 hrs.
Estimated Total Annual Burden Hours: 3,542.

2. Title: Environmental Taxes.
OMB Number: 1545–1361.
Form Number: TD 8662.
Abstract: These regulations impose reporting and recordkeeping requirements necessary to implement Internal Revenue Code sections 4681 and 4682 relating to the tax on chemicals that deplete the ozone layer and on products containing such chemicals. The regulation affects manufacturers and importers of ozone-depleting chemicals, manufacturers of rigid foam insulation, and importers of products containing or manufactured with ozone-depleting chemicals manufacture, import, export, sell, or use ODCs. In addition, the regulation affects persons, other than manufacturers and importers of ozone-depleting chemicals, holding such chemicals for sale or for use in further manufacture on January 1, 1990, and on subsequent tax-increase dates. This regulation provides reporting and recordkeeping rules relating to taxes imposed on exports of ozone-depleting chemicals (ODCs), taxes imposed on ODCs used as medical sterilant or propellants in metered-dose inhalers, and floor stocks taxes on ODCs. The rules affect persons, other than manufacturers and importers of ozone-depleting chemicals, holding such chemicals for sale or for use in further manufacture on January 1, 1990, and on subsequent tax-increase dates. This regulation provides reporting and recordkeeping rules relating to taxes imposed on exports of ozone-depleting chemicals (ODCs), taxes imposed on ODCs used as medical sterilants or propellants in metered-dose inhalers, and floor stocks taxes on ODCs.
Type of Review: Extension of a currently approved collection.
Affected Public: Business or other for-profit organizations.
Estimated Number of Respondents: 150,350.
Estimated Time per Respondent: 30 minutes.
Estimated Total Annual Burden Hours: 75,265 hours.

3. Title: Excise Taxes on Excess Inclusions of REMIC Residual Interests.
OMB Number: 1545–1379.
Form Number: 8831.
Abstract: Taxpayers use Form 8831 to report and pay excise tax on any transfer of a residual interest in a REMIC to a disqualified organization, the amount due if the tax is waived, and the excise tax due on pass-through entities with interests held by disqualified organizations.
Type of Review: Extension of a currently approved collection.
Affected Public: Business or other for-profit organizations.
Estimated Number of Respondents: 31.
Estimated Time per Respondent: 7 hours, 39 minutes.
Estimated Total Annual Burden Hours: 237 hours.

4. Title: LIFO Conformity Requirements.
OMB Number: 1545–1559.
Form Number: 98–46 and 97–44.
Abstract: Revenue Procedure 97–44 permits automobile dealers that comply with the terms of the revenue procedure to continue using the LIFO inventory method despite previous violations of the LIFO conformity requirements of *Internal Revenue Code section 472*(c) or (e)(2). Revenue Procedure 98–46 modified Revenue Procedure 97–44 by allowing medium-and heavy-duty truck dealers to take advantage of the favorable relief provided in Revenue Procedure 97–44.
Type of Review: Extension of a currently approved collection.
Affected Public: Business or other for-profit organizations.
Estimated Number of Respondents: 5,000.
Estimated Time per Respondent: 20 mins.
Estimated Total Annual Burden Hours: 100,000.

5. Title: Form 1098–F—Fines, Penalties, and Other Amounts.
OMB Number: 1545–2284.
Form Number: 1098–F.
Abstract: Public Law 115–97, Tax Cuts and Jobs Act of 2017 (TCJA), amended Internal Revenue Code (IRC) section 162(f) regarding allowable deductions of fines, penalties, and other amounts paid to, or at the direction of, a government or governmental entity in relation to the violation of any law or the investigation or inquiry by such government or entity into the potential violation of any law. The TCJA also added *IRC section 6050X,* requiring the official of any government or entity described in *IRC section 162*(f)(5) to file an information return with respect to certain fines, penalties, and other amounts paid. Treasury Decision (TD) 9946 contains final regulations providing guidance on IRC sections 162(f) and 6050X. Treasury Regulations section 1.6050X–1 provides guidance on the information reporting requirements of *IRC section 6050X* and names Form 1098–F as the return to report the information. Form 1098–F is used to report the amounts paid as required by *IRC section 6050X* to the IRS and provide a statement to the payer.

Current Actions: The form and instructions have been revised to reflect the rules under the final regulations for *IRC section 6050X.* There is no change in burden due to the revisions. However, the number of responses has increased due to better estimates.

Type of Review: Revision of a currently approved collection.

Affected Public: Federal government, State, Local, or Tribal Government.

Estimated Number of Responses: 137,500.

Estimated Time per Respondent: 7 minutes.

Estimated Total Annual Burden Hours: 16,500.

6. Title: Disclosure Statement (Form 8275) and Regulation Disclosure Statement (Form 8275–R).

OMB Number: 1545–0889.

Form Number: 8275 and 8275–R.

Abstract: Internal Revenue Code section 6662 imposes accuracy-related penalties on taxpayers for substantial understatement of tax liability or negligence or disregard of rules and regulations. Code section 6694 imposes similar penalties on return preparers. Regulations sections 1.662–4(e) and (f) provide for reduction of these penalties if adequate disclosure of the tax treatment is made on Form 8275 or, if the position is contrary to regulation on Form 8275–R.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and individuals, not-for-profit institutions, and farms.

Estimated Number of Respondents: 666,666.

Estimated Time per Respondent: 5 hours, 34 minutes.

Estimated Total Annual Burden Hours: 3,716,664 hours.

7. Title: Source of Income from Certain Space and Ocean Activities; Source of Communications Income.

OMB Number: 1545–1718.

Form Number: TD 9305.

Abstract: TD 9305 contains final regulations under section 863(d) governing the source of income from certain space and ocean activities. The final regulations primarily affect persons who derive income from activities conducted in space, or on or under water not within the jurisdiction of a foreign country, possession of the United States, or the United States (in international water). The final regulations also affect persons who derive income from transmission of communications.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 250.

Estimated Time per Respondent: 6 hours.

Estimated Total Annual Burden Hours: 1,500.

8. Title: Leveraged Leases.

OMB Number: 1545–1738.

Form Number: Revenue Procedure 2001–29.

Abstract: Revenue Procedure 2001–29 sets forth the information and representations required to be furnished by taxpayers in requests for an advance ruling that a leveraged lease transaction is, in fact, a valid lease for federal income tax purposes.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations, and not-for-profit institutions.

Estimated Number of Respondents: 10.

Estimated Time per Respondent: 80 hours.

Estimated Total Annual Reporting Burden hours: 800.

9. Title: Information Reporting for Payments Made in Settlement of Payment Card and Third-Party Network Transactions.

OMB Number: 1545–2205.

Form Number: TD 9496, Form 1099–K.

Abstract: This information collection covers final regulations implementing amendments to the Income Tax Regulations (*26 CFR part 1*) relating to information reporting under sections 6041, 6041A, 6050W, and 6051 of the Internal Revenue Code (Code). The form reflects payments made in settlement of merchant card and third-party network transactions for purchases of goods and/or services made with merchant cards and through third-party networks.

Current Actions: There is an increase in the estimated number of respondents previously approved by OMB.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals or households, Business or other for-profit groups, Not-for-profit institutions, Farms, Federal Government, State, Local, or Tribal Governments.

Estimated Number of Respondents: 10,000,000.

Estimated Time per Respondent: 28 minutes.

Estimated Total Annual Burden Hours: 4,800,000.

10. Title: Reimbursable Agreement—Non-Federal Entities and Statistics of Income—User Fee.

OMB Number: 1545–2235.

Form Numbers: 14417 and 14417–A.

Abstract: Form 14417, Reimbursable Agreement—Non-Federal Entities, was developed for funds in reimbursable agreements with non-federal entities such as state, local, foreign governments and non-federal public entities. Form 14417–A, Statistics of Income-User Fee, was developed to be used after a customer contacts the Statistics of Income (SOI) Division requesting data not already available on our TaxStats IRS website.

Type of Review: Extension of a currently approved collection.

Affected Public: State, Local, and Tribal Governments.

Estimated Number of Respondents: 310.

Estimated Time per Respondent: 31 mins.

Estimated Total Annual Burden Hours: 160.

Authority: 44 U.S.C. 3501 *et seq.*

Melody Braswell,

Treasury PRA Clearance Officer.

[FR Doc. 2023–01570 Filed 1–25–23; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0047]

Agency Information Collection Activity: Financial Statement

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration, Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before March 27, 2023.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue

NW, Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0047'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 1717 H Street NW, Washington, DC 20006, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–0047'' in any correspondence.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: Public Law 89–754, section 1013; 8 U.S.C. 3702(b)(2), 38 U.S.C. 3714.

Title: Financial Statement (VA form 26–6807).

OMB Control Number: 2900–0047.

Type of Review: Revision of a Currently Approved Collection.

Abstract: VA Form 26–6807 is used for a variety of purposes in the VA home loan program when determinations of obligors' creditworthiness are required.

The major use of the form is to determine a borrower's financial condition in connection with efforts to reinstate a seriously defaulted, guaranteed, insured, or portfolio loan. VA Loan Technicians mail this form out when reviewing borrowers for a VA Refund (also referred to as a VA Purchase) pursuant to 38 CFR 36.4320, and when completing other supplemental servicing activities.

Affected Public: Individuals or Households.

Estimated Annual Burden: 22 hours.

Estimated Average Burden per Respondent: 45 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 29.

By direction of the Secretary.

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration, Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2023–01522 Filed 1–25–23; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0820]

Agency Information Collection Activity: Adaptive Sport Grant Application; Withdrawn

AGENCY: Veterans Heath Administration, Department of Veterans Affairs.

ACTION: Notice; withdrawal.

SUMMARY: On January 19, 2023, the Veterans Heath Administration (VHA), published a notice in the **Federal Register** announcing an opportunity for public comment on the proposed collection Adaptive Sport Grant Application (*i.e.,* VA Form 10096). This notice was published before the 60-day **Federal Register** Notice closed by error; therefore, this document corrects that error by withdrawing this FR notice, document number 2023–01003.

DATES: As of January 23, 2023, the FR notice published at 88 FR 3779 on Friday, January 20, 2023, is withdrawn.

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 810 Vermont Ave. NW, Washington, DC 20006, (202) 266–4688 or email *maribel.aponte@va.gov.*

SUPPLEMENTARY INFORMATION: FR Doc. 2023–01003, published on Friday, January 20, 2023 (88 FR 3779), is withdrawn by this notice.

By direction of the Secretary.

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration/Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2023–01557 Filed 1–25–23; 8:45 am]

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FEDERAL REGISTER

Vol. 88 Thursday,
No. 17 January 26, 2023

Part II

Federal Trade Commission

HISA Anti-Doping and Medication Control Rule; Notice

FEDERAL TRADE COMMISSION

[Matter No. P222100]

HISA Anti-Doping and Medication Control Rule

AGENCY: Federal Trade Commission.

ACTION: Notice of Horseracing Integrity and Safety Authority (HISA) proposed rule; request for public comment.

SUMMARY: The Horseracing Integrity and Safety Act of 2020 recognizes a self-regulatory nonprofit organization, the Horseracing Integrity and Safety Authority, which is charged with developing proposed rules on a variety of subjects. Those proposed rules and later proposed rule modifications take effect only if approved by the Federal Trade Commission. The proposed rules and rule modifications must be published in the **Federal Register** for public comment. Thereafter, the Commission has 60 days from the date of publication to approve or disapprove the proposed rule or rule modification. The Authority submitted to the Commission a proposed rule on Anti-Doping and Medication Control on December 30, 2022. The Office of the Secretary of the Commission determined that the proposal complied with the Commission's rule governing such submissions. This document publicizes the Authority's proposed rule's text and explanation, and it seeks public comment on whether the Commission should approve or disapprove the proposed rule. This document is substantially similar to the document published on October 28, 2022, as corrected on November 4, 2022, and the Commission will consider all comments filed in response to that document as well as all comments filed in response to this document.

DATES: If approved, the HISA proposed rule would take effect immediately, and the Commission must approve or disapprove the rule by March 27, 2023. Comments must be received on or before February 9, 2023.

ADDRESSES: Interested parties may file a comment online or on paper by following the instructions in the Comment Submissions part of the **SUPPLEMENTARY INFORMATION** section below. Write ''HISA Anti-Doping and Medication Control'' on your comment and file your comment online at *https://www.regulations.gov* under docket number FTC–2023–0009. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex B), Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Austin King (202–326–3166), Associate General Counsel for Rulemaking, Office of the General Counsel, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

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Background

The Horseracing Integrity and Safety Act of 2020 [1] recognizes a self-regulatory nonprofit organization, the Horseracing Integrity and Safety Authority, which is charged with developing proposed rules on a variety of subjects. Those proposed rules and later proposed rule modifications take effect only if approved by the Federal Trade Commission.[2] The proposed rules and rule modifications must be published in the **Federal Register** for public comment.[3] Thereafter, the Commission has 60 days from the date of publication to approve or disapprove the proposed rule or rule modification.[4]

Pursuant to Section 3053(a) of the Horseracing Integrity and Safety Act of 2020 and Commission Rule § 1.142, notice is hereby given that, on December 30, 2022, the Horseracing Integrity and Safety Authority (''HISA'' or the ''Authority'') filed with the Federal Trade Commission a proposed Anti-Doping and Medication Control rule and supporting documentation as described in Items I, II, III, IV, and IX below, which Items have been prepared by HISA. The Office of the Secretary of the Commission determined that the filing complied with the Commission's rule governing such submissions.[5] The Commission publishes this Notice to solicit comments on the proposed rule from interested persons. This document is substantially similar to the document published on October 28, 2022, 87 FR 65292, as corrected on November 4, 2022, 87 FR 66705, and the Commission will consider all comments filed in response to that document as well as all comments filed in response to this document.

I. Self-Regulatory Organization's Statement of the Background, Purpose of, and Statutory Basis for, the Proposed Rule

a. Background and Purpose

The Act recognizes that the establishment of a national set of uniform standards for racetrack safety and medication control will enhance the safety and integrity of horseracing. As part of this endeavor, section 3053(a) of the Act directs the Authority to develop proposed rules relating to ''(2) a list of permitted and prohibited medications, substances, and methods, including allowable limits of permitted medications, substances, and methods; (3) laboratory standards for accreditation and protocols; [. . .] (8) a description of safety, performance, and anti-doping and medication control rule violations applicable to covered horses and covered persons; (9) a schedule of civil sanctions for violations; and (10) a process or procedures for disciplinary hearings.'' [6]

With the review, input, and ultimate approval of the Anti-Doping and Medication Control Standing Committee (''ADMC'') and the Authority's Board of Directors, the proposed rules: (1) set forth a list of anti-doping and controlled medication rules; (2) set forth a list of prohibited substances and methods; (3) set forth a framework for the testing of covered horses and the investigation of possible rule violations by the Horseracing Integrity and Welfare Unit (the ''Agency''); (4) set forth a framework by which laboratories will be accredited and will analyze samples for prohibited substances and markers of prohibited methods; (5) specify the civil sanctions that apply to anti-doping and controlled medication violations; (6) create procedures for disciplinary hearings, tailored to the nature of the charge. The Agency participated in the development of the proposed rule and approves of the rules as filed.

[1] 15 U.S.C. 3051 through 3060.

[2] 15 U.S.C. 3053(b)(2).

[3] 15 U.S.C. 3053(b)(1).

[4] 15 U.S.C. 3053(c)(1).

[5] 16 CFR 1.140 through 1.144; *see also* Fed. Trade Comm'n, Procedures for Submission of Rules Under the Horseracing Integrity and Safety Act, 86 FR 54819 (Oct. 5, 2021).

[6] 15 U.S.C. 3053(a)(2)–(3), (8)–(10).

In compliance with 16 CFR 1.142(a), the Authority states that the reason for adopting the Protocol is that the Horseracing Integrity and Safety Act of 2020 (''Act'') mandates and empowers the Horseracing Integrity and Safety Authority (the ''Authority'') to establish a uniform anti-doping and controlled medication program to improve the integrity and safety of horseracing in the United States (''Program''). The Equine Anti-Doping and Controlled Medication Protocol (''Protocol'') has been developed and issued by the Authority as part of that mandate. It contains or incorporates by reference rules, standards, and procedures to improve and protect the integrity and safety of horseracing in the United States by deterring and penalizing the improper administration or application of Prohibited Substances and Prohibited Methods to Covered Horses. The Protocol is split into five chapters: (1) the purpose, scope, and organization of the Protocol; (2) the Prohibited List, rules of proof, and testing and investigations; (3) the Equine Anti-Doping Rules; (4) the Equine Controlled Medication Rules; and (5) other violations and general procedure/administration.

The Protocol has intentionally divided the regulation of Anti-Doping Rule Violations and Controlled Medication Rule Violations into separate chapters to reflect the Authority's view that the treatment of such violations should be separate and distinct from each other. Anti-Doping Rule Violations involve Banned Substances or Banned Methods, which are substances/methods that should never be in a horse's system or used on a horse as they serve no legitimate treatment purpose. Conversely, Controlled Medication Rule Violations involve Controlled Medication Substances or Controlled Medication Methods, which are substances/methods that have been determined to have appropriate and therapeutic purposes, and so may be used outside the Race Period, except if specified otherwise.

The Protocol and related rules are intended to address the need for uniformity in horseracing, to protect the welfare of Covered Horses, to safeguard the integrity of horseracing, and to ensure the confidence of stakeholders (including the betting public) in the sport. Prior to the implementation of the Authority, horseracing has been regulated in the United States by the States. By its nature, this results in a lack of uniformity in the rules of horseracing, including in many vital areas of equine safety and the proper regulation of the use of prohibited substances. Congress acted to impose a comprehensive program that would effectively regulate horseracing with a common set of rules. The Protocol was developed in collaboration with industry experts and stakeholders who brought to the endeavor an unparalleled depth of equine safety, anti-doping, veterinary medicine, sports integrity, and compliance experience. The Protocol will provide one standard set of rules that apply to doping and medication control, laboratory drug testing methods and techniques, sample collection procedures, investigatory procedures, and hearing and adjudication procedures that will enhance the effective regulation of horse safety and medication issues.

In considering reasonable alternatives to the proposed rule or modification that may accomplish the stated objective, it is important to underline that the Authority and the development of the Protocol is unprecedented. As a consequence, there are of course countless ''alternatives'' on various issues, but the Authority has sought to combine the best practice elements from various sources, including rules and practices developed by the global anti-doping community, horseracing authorities (national and international), and other equine sport organizations.

The Protocol will affect Covered Persons, Covered Horses, and Covered Horseraces by ensuring that horseracing is conducted in a manner that is consistent with the highest standards of integrity and that prioritizes the safety of Covered Horses and Covered Persons. The welfare of Covered Horses is secured by rules that strictly ban and penalize the use of doping substances and methods, and that sanction the misuse of therapeutic medications. All Covered Persons are required to comply with the Protocol and related rules, and to cooperate with the Authority and the Agency in relation to all aspects of doping and medication control, including sample collection, testing, and investigation procedures. The manner in which the Protocol implements these requirements is outlined in detail in Item II of this Notice.

In developing the Protocol and related rules in a manner that is consistent with the Act and the rules and regulations applicable to the Authority, the Authority took the following principles and mandates into consideration, as directed by section 3055(b) of the Act:

(1) Covered Horses should compete only when they are free from the influence of medications, other foreign substances, and methods that affect their performance. The entire Protocol is dedicated to this principle, and the elaborate anti-doping and controlled medication rules work toward the objective of ensuring that Covered Horses compete in a manner that is free of the influence of doping substances, medications, and methods that affect their performance. The Prohibited List and related Technical Document prescribe the substances and methods that are prohibited and permitted under certain circumstances. The Standards (Rules 5000 and 6000 Series) set out comprehensive investigatory and sample collection provisions and an accreditation system that ensures accurate laboratory testing, and the Arbitration Procedures establish a set of disciplinary procedures to deal fairly but firmly with violations of the rules.

(2) Covered Horses that are injured or unsound should not train or participate in covered races, and the use of medications, other foreign substances, and treatment methods that mask or deaden pain in order to allow injured or unsound horses to train or race should be prohibited. In the Protocol, Rule 3111 operates together with the Prohibited List to ban substances and methods for which there exists medical, veterinary, or other scientific evidence or experience to a support their actual or potential masking properties (''Banned Substances'' and ''Banned Methods'') and to restrict the use of medications during the Race Period (''Controlled Medication Substances'' and ''Controlled Medication Methods''). Certain Controlled Medication Substances are also prohibited during workouts, as set out in the Prohibited List. The Protocol also operates in conjunction with the Rule 2000 Racetrack Safety Program, which sets forth stringent rules for placing Covered Horses on the Veterinarians' List and requires the Regulatory Veterinarian to oversee removal from the list. These processes help to ensure that injured and unsound horses do not train or participate in Covered Horseraces. It should also be noted that Rule 2271 in the Racetrack Safety Program prohibits the ''[u]se of physical or veterinary procedures to mask the effects or signs of injury so as to allow training or racing to the detriment of the Horse's health and welfare.''

(3) Rules, standards, procedures, and protocols regulating medication and treatment methods for Covered Horses and Covered Horseraces should be uniform and uniformly administered nationally. The Protocol preempts state laws and provides instead a uniform set of comprehensive rules that embrace all of the areas previously addressed in state anti-doping and medication

control regulation schemes. The entire scheme will be administered nationally by the Authority and the Agency to ensure uniform and consistent application of the law. The Protocol and related rules will create a comprehensive program that is unprecedented in horseracing as previously conducted and regulated in the United States.

(4) Consideration should be given to international anti-doping and medication control standards of the International Federation of Horseracing Authorities (''IFHA'') and the Principles of Veterinary Medical Ethics of the American Veterinary Medical Association. As directed by the Act, the ADMC has scrutinized the IFHA standards and rules very closely and also considered the Principles of Veterinary Medical Ethics of the American Veterinary Medical Association in preparing the Protocol. The World Anti-Doping Code also provided much of the inspiration for the Protocol, adapted as necessary for horseracing, taking into account national and international horseracing rules and Equine Anti-Doping and Controlled Medication Regulations of the International Equestrian Federation (*i.e.,* the global governing body for equestrian sport).

(5) The administration of medications and treatment methods to Covered Horses should be based upon an examination and diagnosis that identifies an issue requiring treatment for which the medication or method represents an appropriate component of treatment. The Protocol addresses the requirement for a sound diagnosis as a prerequisite for treatment and the need for such treatment not to be administered in a manner contrary to horse welfare. Specifically, Rule 3040(b)(3) states that it is the personal responsibility of each Responsible Person to ensure that treatments and medications administered to his or her Covered Horses (i) are administered only on the advice of a Veterinarian or (if a prescription is not required) following sufficient due diligence regarding the treatment or medication; (ii) are not administered in a manner detrimental or contrary to horse welfare; (iii) are the minimum necessary to address the diagnosed health concerns identified during the veterinary examination and diagnostic process; (iv) do not contain a Banned Substance or involve a Banned Method; and (v) do not otherwise violate the Protocol. Further, Rule 3314 penalizes use of a Controlled Medication Substance or Method in a manner that is contrary to horse welfare. In particular, Rule 3314(a) specifically mandates that any use of a Controlled Medication Substance or a Controlled Medication Method on a Covered Horse must ''(i) be justified by the Covered Horse's medical condition(s) as diagnosed by a Veterinarian, (ii) have been recommended by a Veterinarian in the context of a valid veterinarian-patient-client relationship, (iii) go no further than the minimum necessary to address the diagnosed health concerns, and (iv) be in the best interests of the Covered Horse's health and welfare.'' Rule 3314(b) also states that it is ''the personal and non-delegable duty of the Responsible Person'' to ensure the above requirements in Rule 3314(a) are complied with. The Protocol also establishes in Rules 3227 and 3327 that an aggravating circumstance that may be taken into account in assessing sanctions for a rule violation may include ''administration of a Controlled Medication Substance that is detrimental to the health and welfare of the horse or is designed to deceive the betting public.'' It should also be noted that Rule 2221 (of the previously approved Racetrack Safety Rule) also establishes examination and diagnoses requirements in the context of the veterinarian-client-patient relationship.

(6) The amount of therapeutic medication that a Covered Horse receives should be the minimum necessary to address the diagnosed health concerns identified during the examination and diagnostic process. As noted above, Rule 3040(b)(3) and Rule 3314 specifically address the requirement that any use of a Controlled Medication Substance or a Controlled Medication Method on a Covered Horse must go no further than ''the minimum necessary to address the diagnosed health concerns.''

(7) The welfare of Covered Horses, the integrity of the sport, and the confidence of the betting public require full disclosure to regulatory authorities regarding the administration of medications and treatments to Covered Horses. The Protocol addresses this issue in several ways. It requires all Covered Persons to cooperate promptly and completely with the Authority and the Agency in the exercise of their respective powers under the Act and the Protocol and related rules (Rule 3040(a)). Each Responsible Persons is required to maintain accurate, complete, and up-to-date treatment records of his or her Covered Horses in a form specified by the Agency, and to provide the records on request to the Agency (Rule 3040(b)(8)). Responsible Persons must declare to the Agency any use of Banned Substances or Banned Methods on a horse prior to it becoming a Covered Horse (Rule 3040(b)(9)). To facilitate out-of-competition testing, Responsible Persons must file whereabouts information if their Covered Horses are moved to a private facility (Rule 3040(b)(10)). Attending Veterinarians must keep updated treatment records in an electronic database designated by the Agency or in any other form designated by the Agency and must provide access on request to copies of these records (Rule 3040(d)). Refusal or failure to cooperate with the Authority or the Agency, or the commission of a Whereabouts Failure, constitutes a violation of the Protocol under Rule 3510. Several provisions in the Rule 2000 Series complement the Protocol's disclosure requirements. Rule 2551, for example, requires every Veterinarian who examines or treats a Covered Horse to submit to the Authority, within 24 hours of such examination or treatment medications, treatment records with details as prescribed in the Rule.

In further compliance with the Act, the Protocol establishes a comprehensive set of violations and hearing procedures to prohibit certain conduct, to provide a process for determining the existence of a violation; of charging a Covered Person with a violation; and with resolving the matter in a full and fair hearing process. The Protocol authorizes the imposition of sanctions that comport with the severity of the violation. Consistent with 15 U.S.C. 3057(d)(2), the violation and sanction system is tailored to the unique aspects of horseracing in that it has the power to declare a Covered Person or Covered Horse ineligible to race for a specified time, imposes substantial fines upon Covered Persons, and establishes a points system to implement a system of penalties for multiple violations of the Protocol. These penalties are common in the adjudication and sanction of violations in the world of horseracing. The sanctions also include forfeiture of purse, disqualification of horses, and changes to the order of finish in horse races. The elaborate hearing procedures and penalty rules ensure that violations are consistently and fairly penalized, which in turn deters future violations, and maintains the integrity and conduct of fair and transparent horseraces. Effective sample collection and testing techniques, as set forth in Rule Series 5000 and 6000 also serve to enhance successful prosecution of violations, which deter future violations. The goal of transparency is also served by operation of the public disclosure rules in the Protocol, which

mandate that the public be informed of information concerning specific cases as the cases are adjudicated or otherwise resolved.

The components of the Protocol and related rules comport with the baseline standards in 15 U.S.C. 3055(g)(2)(a), which include: (1) the lists of permitted and prohibited substances (including drugs, medications, and naturally occurring substances and synthetically occurring substances) in effect for the International Federation of Horseracing Authorities, including the International Federation of Horseracing Authorities International Screening Limits for urine, dated May 2019, and the International Federation of Horseracing Authorities International Screening Limits for plasma, dated May 2019; (2) the World Anti-Doping Agency International Standard for Laboratories (version 10.0), dated November 12, 2019; (3) the Association of Racing Commissioners International out-of-competition testing standards, Model Rules of Racing (version 9.2); and (4) the Association of Racing Commissioners International penalty and multiple medication violation rules, Model Rules of Racing (version 6.2). Any deviations from the baseline standards have been approved by the Authority and the Agency following detailed consideration and adoption of an approach that is either stricter or more consistent with horseracing.

b. Statutory Basis

The Horseracing Integrity and Safety Act of 2020, 15 U.S.C. 3051 through 3060.

II. Self-Regulatory Organization's Statement of the Terms of Substance of the Registration Proposed Rule and Discussion of Alternatives

a. Existing Standards

Anti-doping and controlled medication rules currently vary from State to State, but the overall structure of the rules governing horseracing is generally consistent among the States. In particular, the rules of horseracing center around a number of common subject areas, including the licensing of racing associations and of individual participants in horseracing, medication control rules, pari-mutuel wagering rules, the operation of various incentive funds, rules concerning the running of the race, and rules establishing disciplinary measures and hearing procedures. The basic precepts of many of the rules pertaining to violations, sanctions, hearing procedures, and investigatory powers have been in force in racing states for many years, and the Authority has reviewed and considered key provisions from numerous states in developing these rules.

The Association of Racing Commissioners International (''ARCI'') sets forth standards and protocols in its Model Rules of Racing (''ARCI Rules''). Relying upon the collective expertise of regulatory personnel in member jurisdictions in consultation with regulated entities, industry stakeholders, and individuals, ARCI committees regularly consider ways to improve and enhance the regulation of racing. The Authority considered the ARCI Model Rules of Racing when developing the Protocol and related rules. Likewise, the Authority considered rules from other racing jurisdictions such as the British Horseracing Authority's Rules of Racing.

The Authority also considered and relied heavily on international anti-doping standards, including the World Anti-Doping Code (applicable to human athletes) and the International Equestrian Federation (''FEI'') Equine Anti-Doping and Controlled Medication Regulations (applicable at the international level to various equestrian disciplines). Those regulations provide a robust anti-doping framework that has been tested before arbitration tribunals for many years, and that has generated a well-developed body of precedent and guidance for interpreting the provisions in those frameworks.

The Authority, in consultation with the ADMC and the Agency, reviewed these existing standards and tailored them to the Authority's regulatory structure and goals, and to the specificities of horseracing.

The provisions of these Series were made publicly available on the Authority website at *www.hisaus.org/regulations* on June 1, 2022. A number of stakeholder comments were received, which are addressed further in Item III below. Additionally, the Authority consulted directly with a number of industry officials and participants in obtaining feedback on the proposed rules. The Authority is submitting those comments along with this Notice of Filing as Exhibit A, which is available for public inspection at the corresponding docket at *https://www.regulations.gov*. Furthermore, all the important source materials on which the Authority relied in developing its proposed rule are also collected at that docket as Exhibit B.

b. Terms of Substance: Rule Series 3000—Equine Anti-Doping and Controlled Medication Protocol

1. Purpose, Scope, and Organization—Rules 3010–3090

Chapter I of the Protocol has been developed taking account of the requirements of the Act, including, in particular, those set out at sections 3054 and 3055 of the Act.

The Protocol will go into effect if and when the Commission approves the proposed rule. The Protocol contains or incorporates by reference rules, standards, and procedures to improve and protect the integrity and safety of horseracing in the United States by deterring and penalizing the improper administration or application of Prohibited Substances and Prohibited Methods to Covered Horses. The Protocol is divided into five substantive chapters: (1) the purpose, scope, and organization of the Protocol; (2) the Prohibited List, rules of proof, and testing and investigations; (3) the Equine Anti-Doping Rules; (4) the Equine Controlled Medication Rules; and (5) other violations and general procedure/administration.

The Protocol has intentionally divided the regulation of Anti-Doping Rule Violations and Controlled Medication Rule Violations into separate chapters to reflect the Authority's view that the treatment of such violations should be separate and distinct from each other. Anti-Doping Rule Violations involve Banned Substances or Banned Methods, which are substances/methods that should never be in a horse's system or used on a horse as they serve no legitimate treatment purpose. Conversely, Controlled Medication Rule Violations involve Controlled Medication Substances or Controlled Medication Methods, which are substances/methods that have been determined to have appropriate and therapeutic purposes, and so may be used outside the Race Period, except if specified otherwise. This division accords with international best practices. However, the two distinct processes share many common features and rules, and therefore the Protocol is streamlined to make the processes consistent with each other wherever possible.

The Protocol will be implemented and enforced on behalf of the Authority by the Agency, which has created an entity designated as the Horseracing Integrity and Welfare Unit (''Agency''). In addition, and only where so agreed, State Racing Commissions acting under the delegated authority of the Authority

or the Agency (Rule 3010(e)) may also assist in implementation.

In accordance with section 3055(a)(1) of the Act, the Protocol applies to all Covered Horses, Covered Persons, and Covered Horseraces (Rule 3020). Pursuant to section 3054 of the Act, Covered Persons must register with the Authority.

In developing the Protocol, the Authority reviewed and considered various anti-doping and controlled medication rules, including:

Exhibit B.2. ARCI Model Rules of Racing, including, in particular, the penalty provisions and rules on multiple medication violation.
Exhibit B.3. FEI Equine Anti-Doping & Controlled Medication Regulations.
Exhibit B.4. FEI Atypical Findings Policy.
Exhibit B.5. World Anti-Doping Code.
Exhibit B.6. British Horseracing Authority Equine Anti-Doping Rules.

2. Prohibited List, Rules of Proof, and Testing and Investigations—Rules 3110–3140

The Protocol incorporates the Prohibited List, which identifies the Banned Substances and Banned Methods that are prohibited at all times on the basis of the Agency's determination that medical, veterinary, or other scientific evidence or experience supports their actual or potential (i) ability to enhance the performance in Covered Horses, (ii) masking properties, or (iii) detrimental impact on horse welfare. The Prohibited List also identifies Controlled Medication Substances and Controlled Medication Methods, which are prohibited for Use on or Administration to a Covered Horse during the Race Period and must not be present in a Post-Race Sample or Post-Work Sample, except as specified otherwise. In other words, the phrase ''Prohibited Substances and Prohibited Methods'' refers to Banned Substances and Banned Methods as well as Controlled Substances and Controlled Medication Methods that are only restricted during the Race Period. The Prohibited List will be published at least annually (Rule 3112).

The Prohibited List is supplemented by the ''Technical Document—Prohibited Substances,'' which enumerates the Prohibited Substances that fall into the general categories listed in the Prohibited List and sets forth detection times, screening limits, and thresholds for those Prohibited Substances. The Technical document also designates certain Prohibited Substances as Specified Substances, which are those that pose a higher risk of being the result of contamination and that are, therefore, subject to more flexible sanctions.

In disciplinary cases brought under the Protocol, the Agency will have the burden of establishing that a violation of the Protocol has occurred to the comfortable satisfaction of the hearing panel, bearing in mind the seriousness of the allegation made (Rule 3121), and facts may be established by any reliable means (Rule 3122). The ''comfortable satisfaction'' standard of proof is greater than a mere balance of probability (*i.e.,* a preponderance of the evidence) but less than clear and convincing evidence or proof beyond a reasonable doubt (Rule 3121).

Only the Agency (and those authorized by the Agency) may initiate and direct testing on any Covered Horse. The Agency will have broad authority to conduct testing both in and out of competition (Rule 3132), and samples collected will be owned by the Authority (Rule 3135). Samples obtained from Covered Horses will be analyzed primarily to detect the presence of Prohibited Substances (Rule 3137).

State Racing Commissions, Racetracks, Race Organizers, and Training Facilities shall not initiate or direct any Testing of Covered Horses. However, they may request that the Agency initiate and direct enhanced or additional Testing (*e.g.,* in relation to a particular Covered Horserace). The Agency may accept or decline such request at its absolute discretion. Where the Agency accepts the request, the costs of Sample collection and analysis shall be borne by the entity requesting the additional or enhanced Testing. The Agency may conduct the Testing itself or delegate the Testing to the relevant State Racing Commission. (Rule 3132).

3. Equine Anti-Doping Rules—Rules 3210–3260

The Equine Anti-Doping Rules set out in Chapter III of the Protocol apply to conduct involving Banned Substances or Banned Methods, *i.e.,* substances and methods prohibited at all times. The violations set out in this Chapter are included as directed by section 3057(a)(2) of the Act, and are also substantively modelled on World Anti-Doping Code violations. The violations prohibit use, possession, trafficking, and administration to a Covered Horse of Banned Substances or Banned Methods (Rules 3213 and 3214). It is a violation to evade, refuse or fail to submit a Covered Horse to sample collection (Rule 3215), and the presence of a Banned Substance in a sample collected from a Covered Horse is also a violation (Rule 3212). In accordance with section 3057(a)(2) of the Act, presence and use violations are strict liability offenses for the Responsible Person, although other Covered Persons may also be liable to the same extent if they are complicit in the violation. Other prohibited conduct includes tampering with doping control, complicity with another person's violation, associating with a person who is banned, and improper retaliation against actual or potential whistle-blowers or intimidation of witnesses (Rule 3216). Attempts to commit Anti-Doping Rule Violations are also sanctionable.

As directed by the Act, the Authority has developed a list of civil sanctions for Anti-Doping Rule Violations. The Protocol and Prohibited List establish uniform rules imposing civil sanctions against Covered Persons and Covered Horses for Anti-Doping Rule Violations (and also for Controlled Medication Rule Violations, addressed under chapter IV of the Protocol), as directed by section 3057(d) of the Act. The range of civil sanctions (a) take into account the unique aspects of horseracing; (b) are designed to ensure fair and transparent Covered Horseraces; and (c) are intended to deter violations. The severity of the sanctions depends on the nature of the violation, and allows an opportunity for adjustment in penalty depending on the violation and facts involved.

A mandatory part of each sanction will include Public Disclosure of relevant information, including the Covered Person's name, the violation, and consequences imposed (Rules 3231 and 3620).

If the violation arises from a Post-Race Sample or occurs during the Race Period, the Covered Horse's results at that Covered Horserace will automatically be disqualified, because the horse competed with a Banned Substance in its system, irrespective of the reason why the Banned Substance was there or any degree of fault on the part of the Covered Person (Rule 3221(a)). Subsequent results may also be disqualified (Rule 3221(b)) and in any case of disqualification, all purses and other compensation, prizes, trophies, points, and rankings are forfeited and must be repaid or surrendered to the race organizer, and the results of the other Covered Horses in the race in question must be adjusted accordingly (Rule 3221(c)).

The Protocol now also specifies what happens to the race classification pending the outcome of the disciplinary proceedings (Rules 3221 and 3321). Further, Rule 3221(a) allows for the Agency, the Responsible Person, and the

Owner of the Covered Horse in question to agree (or to ask the Arbitral) to apply Rule 3221 immediately, *i.e.,* prior to adjudication of any other issue.

In presence or use cases, the Covered Horse will be subject to a period of ineligibility, the length of which depends on the particular Banned Substance(s) detected, as set out in the Prohibited List. During any period of ineligibility, the Covered Horse shall not participate in any Workout or Covered Horserace, but will remain subject to testing (Rule 3229).

The Covered Person will be sanctioned with a period of ineligibility commensurate to his or her level of fault, in accordance with a detailed sanctioning framework. The starting point for presence, use, possession, or administration violations is a period of ineligibility of two years, subject to elimination or reduction if the Covered Person can demonstrate that he or she bears no or no significant fault or negligence, or subject to increase if aggravating circumstances are present (Rules 3223(b), 3224, and 3225). For other violations, the rules specify other starting points or ranges for the applicable period of ineligibility that reflect the seriousness of the violation (Rule 3223(b)). The rules also provide the Authority with the ability to eliminate or reduce an applicable period of ineligibility in circumstances where a Covered Person provides Substantial Assistance or admits the violation early or in the absence of other evidence (Rule 3226). There are also increased sanctions for repeat offenders (Rule 3228). During any period of ineligibility, the Covered Person shall not participate in any capacity in any activity involving Covered Horses or in any other activity (other than authorized anti-doping education or rehabilitation programs) taking place at a Racetrack or Training Facility; nor shall he or she permit anyone to participate in any capacity on his or her behalf in any such activities (Rule 3229(a)). The Covered Horse(s) of an Owner or Trainer subject to a Provisional Suspension or period of Ineligibility shall also be subject to restrictions (Rule 3229(b)).

The Covered Person may also be required to pay a fine, depending on the violation, and some or all of the Agency's legal costs (Rule 3223(b)).

Where a Covered Person is found based on the same facts to have committed a violation involving both (i) one or more Banned Substance(s) or Banned Method(s), and (ii) one or more Controlled Medication Substance(s) or Controlled Medication Method(s), the Covered Person shall be considered to have committed one Anti-Doping Rule Violation and the sanction imposed shall be based on the Banned Substance or Banned Method that carries the most severe sanction. Rule 3227 (Aggravating Circumstances) may also be applied to increase the sanction imposed (Rule 3228(d)).

The Equine Anti-Doping Rules provide a framework for the results management of potential anti-doping rule violations, as directed by the Act. Different types of Samples may be collected from Covered Horses, including urine, blood, and hair. Unless specified otherwise in the rules, at the time of collection, the Sample will be divided into an ''A'' and a ''B'' Sample. Review of ''A Sample'' adverse analytical findings or other evidence leads to an initial notification by the Agency to the Covered Person that he or she may have committed an anti-doping rule violation (Rule 3245). In some cases, the Covered Person will be provisionally suspended pending determination of the matter (Rule 3247), and the ''B Sample'' may be tested (Rule 3246). The Covered Person is entitled to respond to the Agency's initial notification, and if he or she does, the Agency will take any comments and additional information into account before deciding whether to formally charge the Covered Person with an anti-doping rule violation and request a more formal response (Rule 3248)).

The Covered Person is entitled to have the charge determined by the Arbitral Body (the panel hearing will consist of either one or three impartial arbitrators) in accordance with the Arbitration Procedures (Series 7000). The final decision of the Arbitral Body is subject to review in accordance with the Act (Rule 3264). The rules also provide for the Agency and Covered Person to agree to a resolution to the charge without a hearing (Rule 3249).

4. Equine Controlled Medication Rules—Rules 3310–3360

The Equine Controlled Medication Rules set out in Chapter IV of the Protocol apply to conduct involving Controlled Medication Substances or Controlled Medication Methods (*i.e.,* substances prohibited for use on or administration to a Covered Horse during the Race Period and prohibited to be present in a Post-Race Sample or Post-Work Sample, except as otherwise specified in the Prohibited List). The violations set out in this Chapter are drawn from similar provisions to those relating to Anti-Doping Rule Violations, modified to reflect the differing approaches to the use of Controlled Medication Substances and Controlled Medication Methods, as opposed to Banned Substances and Banned Methods. The violations include the use, possession, or administration to a Covered Horse of Controlled Medication Substances or Controlled Medication Methods during the Race Period (Rules 3313 and 3315). Other violations include use of a Controlled Medication Substance that is not justified by the horse's medical condition or does not meet other criteria (Rule 3314), tampering with medication control (Rule 3316), and the presence of a Controlled Medication Substance in a sample collected from a Covered Horse (Rule 3312). In accordance with section 3057(a)(2) of the Act, presence and use violations are considered strict liability offenses. Attempts to commit Controlled Medication Rule Violations are also sanctionable.

As directed by the Act, the Authority has developed a list of civil sanctions for Controlled Medication Rule Violations. The Protocol and Prohibited List establish uniform rules imposing civil sanctions against Covered Persons and Covered Horses for Controlled Medication Rule Violations, as directed by section 3057(d) of the Act. The range of civil sanctions (a) take into account the unique aspects of horseracing; (b) are designed to ensure fair and transparent Covered Horseraces; and (c) are intended to deter violations. The severity of the sanctions depends on the nature of the violation, and allows an opportunity for adjustment depending on the violation and facts involved.

A mandatory part of each sanction will include Public Disclosure of relevant information, including the Covered Person's name, the violation, and consequences imposed (Rules 3331 and 3620).

If the violation arises from a Post-Race Sample or occurs during the Race Period, the Covered Horse's results at that Covered Horserace will automatically be disqualified, with all resulting consequences, because the horse competed with a Controlled Medication Substance in its system. The results will be automatically disqualified irrespective of the reason why the Controlled Medication Substance was detected or of any degree of fault on the part of the Covered Person (Rule 3321(a)). Subsequent results will not be disqualified (Rule 3321(b)).

The Covered Horse will not be subject to a period of ineligibility if the violation involves a Controlled Medication Substance, but may be subject to a period of ineligibility if the violation involves a Controlled Medication Method as specified in the Prohibited List (Rule 3322).

Covered Persons shall be sanctioned for any Controlled Medication Rule Violations in accordance with Rule 3323(b), depending on the category or class of the violation, and the number of violations committed within that same category/class in the previous two-year period. Presence, use, and administration violations are divided into three different classes (Class A, Class B, Class C) with Class A carrying the more severe sanctions. The sanctions for Controlled Medication Rule Violations are subject to elimination (Rule 3324), reduction (Rules 3325 and 3326), or increase (Rule 3327), depending on the violation in issue and the specific circumstances of the case.

The Protocol also establishes a multiple medication violation penalty points system for repeat offenders which takes account of violations committed in different categories/classes (Rule 3328). As directed by section 3055(g) of the Act, the Authority used the Association of Racing Commissioners International penalty and multiple medication violation rules, Model Rules of Racing, as a baseline for the multiple violations penalty points system. All adjustments and modifications to the baseline rules were approved by the Authority in consultation with the ADMC and the Agency in accordance with section 3055(g)(3) of the Act.

The penalty points system is not a substitute for the consequences that apply to the underlying Controlled Medication Rule Violations. Rather, the penalty points system is intended to apply additional uniform Consequences where the Covered Person is a repeat offender and exceeds the permissible number of points. Where the relevant cumulative point threshold is exceeded, the Covered Person shall receive an automatic additional period of ineligibility as specified in Rule 3328(c). Penalty points are assigned automatically depending on the category/class of violation in issue, save where specified otherwise in Rule 3328. Penalty points and the additional period of Ineligibility shall be applied automatically at the conclusion of the proceeding on the underlying violation, without any additional hearing or right of review. Penalty points shall be applied retroactively to start on the date on which the Controlled Medication Rule Violation occurred and shall expire after 2 years (Rule 3328(d)).

During any period of Ineligibility or Provisional Suspension, Covered Persons shall be prohibited from the same activities as anyone banned for an Anti-Doping Rule Violation. As for Anti-Doping Rule Violations, the Covered Horses of a suspended Trainer or Owner may not participate in any Timed and Reported Workout or Covered Horserace, but in contrast to Anti-Doping Rule Violations, they may participate in a Covered Horserace if they were entered in the race before the Trainer was notified of the Provisional Suspension or the period of Ineligibility was imposed (whichever is earlier) (Rule 3320(b)). Further, in contrast to Anti-Doping Rule Violations, the Covered Horses of a suspended Trainer must only be transferred to another Covered Person if the period of ineligibility imposed on the Trainer is more than 30 days (Rule 3329(b)).

The Covered Person may also be required to pay a fine depending on the category of the violation, and some or all of the Agency's legal costs (Rule 3323(b)).

The Equine Controlled Medication Rules provide a framework for the results management of potential controlled medication rule violations as directed by the Act, from review of ''A Sample'' adverse analytical findings or other evidence leading to an initial notification by the Agency to the Covered Person that he or she may have committed a controlled medication rule violation (Rule 3345). The Covered Person will not be provisionally suspended pending determination of the matter unless he or she voluntarily accepts a provisional suspension (Rule 3347), and the B Sample may be tested (Rule 3346). The Covered Person is entitled to respond to the Agency's initial notification, and if he or she does, the Agency will take any comments and additional information into account before deciding whether to formally charge the Covered Person with a controlled medication rule violation and request a more formal response (Rule 3348).

The Covered Person is entitled to request a hearing before the Internal Adjudication Panel. The hearing will ordinarily be conducted before a single member of the Internal Adjudication Panel, though three members may be assigned to hear the case where appropriate. The Internal Adjudication Panel may decide in its sole discretion to determine the matter on the written submissions alone without a hearing if the Internal Adjudication Panel considers itself sufficiently well-informed to render a decision on the written submissions alone. The Internal Adjudication Panel will issue a final decision, subject to review in accordance with the Act (Rules 3361–3364).

The rules also provide for the Agency and Covered Person to agree to a resolution to the charge without a hearing (Rule 3349).

5. Other Violations and General Procedure/Administration—Rules 3500–3800

Chapter V sets out additional disciplinary offenses that do not fall within the chapters on Equine Anti-Doping Rules or Equine Controlled Medication Rules (Rule 3510), and also prescribes sanctions (periods of ineligibility and fines) for those violations (Rule 3520). Those violations include engaging in disruptive or offensive conduct towards doping control personnel, refusing/failing to cooperate in full with the Authority or Agency in the discharge of his or her respective responsibilities under this Protocol, and committing a whereabouts failure (in effect, failing to provide the necessary information to enable a Covered Horse to be located for testing). Alleged violations will be determined by the Internal Adjudication Panel (Rule 3361).

In accordance with section 3057(c)(2) of the Act, the rules provide guidelines for confidentiality and public reporting of decisions (Rules 3610–3630). Rule 3710 also provides for the recognition of decisions by recognized, official third parties, for example, national horseracing authorities in other countries applying substantially similar rules (Rule 3700).

c. Terms of Substance: Rule Series 1000—General Provisions

The Protocol and other Series are supported by the general rules of interpretation (Rule 1010) and a list of defined terms (Rule 1020) to assist with clarity of meaning.

d. Terms of Substance: Rule Series 4000—Prohibited List

As directed by sections 3053 and 3055 of the Act, the Authority has developed a list of permitted and prohibited medications, substances, and methods, including allowable limits of permitted medications, substances, and methods, using as a baseline the lists of permitted and prohibited substances (including drugs, medications, and naturally occurring substances and synthetically occurring substances) in effect for the International Federation of Horseracing Authorities (''IFHA''), including the IFHA International Screening Limits for urine and the IFHA International Screening Limits for plasma. All adjustments and modifications to the baseline rules were approved by the Authority in consultation with the

ADMC and the Agency in accordance with section 3055(g)(3) of the Act.

The Prohibited List identifies Prohibited Substances and Prohibited Methods that are: (a) prohibited at all times (''Banned Substances'' and ''Banned Methods'') on the basis of the Agency's determination that medical, veterinary, or other scientific evidence or experience supports their actual or potential (i) ability to enhance the performance in Covered Horses, (ii) masking properties, or (iii) detrimental impact on horse welfare; or (b) prohibited for Use on or Administration to a Covered Horse during the Race Period and prohibited to be present in a Post-Race Sample (which includes samples collected following a Covered Horserace or Vets' List Workout) or Post-Work Sample (which includes samples collected following a Timed and Reported Workout), except as otherwise specified in the Prohibited List (''Controlled Medication Substances'' and ''Controlled Medication Methods''). Prohibited Substances and Prohibited Methods may be included in the Prohibited List by general category (*e.g.,* anabolic steroids) or by specific reference to a particular substance or method.

The Prohibited List is supplemented by the ''Technical Document—Prohibited Substances,'' which enumerates the Prohibited Substances that fall into the general categories listed in the Prohibited List and sets forth detection times, screening limits, and thresholds for those Prohibited Substances. The Technical Document also designates certain Prohibited Substances as Specified Substances, which are those that pose a higher risk of being the result of contamination and that are therefore subject to more flexible sanctions.

In accordance with section 3055(d) of the Act, the use or administration of Controlled Medication Substances and Controlled Medication Methods is prohibited during the ''Race Period'' (*i.e.,* 48 hours prior to post-time) except where expressly provided otherwise in the Prohibited List or Protocol. Responsible Persons are strictly liable for any substance found to be present in a Post-Race Sample or Post-Work Sample, even if such substance was used or administered before the Race Period. As specified in section 3055(e) and (f) of the Act, certain exemptions apply to furosemide (*i.e.,* Lasix/Salix), which are set out in the Prohibited List.

The Prohibited List and supporting Technical Document were prepared in consultation with the ADMC and the Agency, and approved by the Authority, as directed by section 3055(c)(5) of the Act. In preparing the Prohibited List and the ''Technical Document—Prohibited Substances,'' the Authority considered lists of prohibited substances and methods published by other organizations, including the ARCI, World Anti-Doping Agency (''WADA''), the FEI, and the British Horseracing Association. Documents considered in preparing the Prohibited List are exhibited below:

Exhibit B.7. IFHA International Screening Limits for urine.
Exhibit B.8. IFHA International Screening Limits for plasma.
Exhibit B.9. ARCI Uniform Classification Guidelines for Foreign Substances and Recommended Penalties Model Rule.
Exhibit B.10. WADA 2022 Prohibited List.
Exhibit B.11. 2022 FEI Equine Prohibited Substances List.
Exhibit B.12. British Horseracing Association Equine Prohibited List Code (2022).
Exhibit B.13. British Horseracing Association Published Detection Times (June 2019).
Exhibit B.14. Hong Kong Jockey Club Medication and Prohibited Substances.

The ADMC also considered a number of scientific papers when developing the Prohibited List and supporting Technical Document:

Exhibit B.15. AAS 16 Detection of Some Designer Steroids in Horse Urine: Identifies the integrity risks associated with the use of anabolic steroids in racehorses.
Exhibit B.16. AAS 29 Anabolic Effects of β2-agonists, formoterol and salbutamol on cancellous bone of ovariectomized (OVX) rat: With the banning of anabolic steroids, those seeking an anabolic effect turned to β2-agonists. Their misuse has been well-documented in horses engaged in racing and training.
Exhibit B.17. ACA 01 Effects of intravenous aminocaproic acid on exercise-induced pulmonary haemorrhage (EIPH): Although this drug has extensive anecdotal support for effect in mitigating EIPH, this article demonstrates no effect on the condition. While not regulated in human sport, the illicit use of this substance, particularly in races where furosemide is prohibited, represents an integrity threat.
Exhibit B.18. AU 04 Disposition of the anti-ulcer medications ranitidine, cimetidine, and omeprazole following administration of multiple doses to exercised Thoroughbred horses. The results of multiple RMTC administration studies supporting the use of anti-ulcer medications up to 24 hours prior to a horse's race.
Exhibit B.19. Bicarb 08 Sodium Bicarbonate as an Ergogenic Aid: Supports the use of alkalinizing agents as a Prohibited Method.
Exhibit B.20. BP Gen 04 Bisphosphonate Therapy in Equine Sports Medicine: While having legitimate use in human medicine, the documented pharmacologic effect of this class of drug (blocking remodeling) on bone represents a significant increased risk for fracture development in the racehorse.
Exhibit B.21. Cobalt 01 The Disparate Roles of Cobalt in Erythropoiesis, and Doping Relevance: Establishes the relevance of the administration of cobalt salts as a doping threat and justifies the controls established in the Prohibited List.
Exhibit B.22. Comp 18 The Disparate Roles of Cobalt in Erythropoiesis, and Doping Relevance: Published by the American Veterinary Medical Association, this document clarifies what constitutes legal compounding of drugs as the ethical use of compounded medications is important to maintaining equine health. However, the compounding or administration of illicitly compounded substances to circumvent Food and Drug Administration (''FDA'') oversight represents a substantial risk to horse health and racing integrity.
Exhibit B.23. EIPH 33 Exercise-induced pulmonary hemorrhage (EIPH): mechanistic bases and therapeutic interventions: Describes this condition (rarely, but occasionally, experienced by human athletes) that affects virtually every race horse at some point(s) in its racing and training career.
Exhibit B.24. Furos 15 Efficacy of furosemide in the treatment of exercise-induced pulmonary hemorrhage in Thoroughbred racehorses: The seminal study that demonstrated the efficacy of furosemide in mitigating or preventing episodes of EIPH in the racing Thoroughbred. While not submitted as a justification for the continued use of furosemide, this study did establish furosemide as the only medication having efficacy for controlling EIPH and why the WADA total ban on furosemide cannot be, at this time, applied to horseracing. This article also then justifies the Prohibited List's exclusion for the use of furosemide in training exercise.
Exhibit B.25. PAG 13 Intra-Articular Polyacrylamide Hydrogel Injections

Are Not Innocent: While the use of polyacrylamide hydrogels have a history of use in human joint disease, their introduction into the equine market as medical devices, is relatively recent, and the lack of documented method of action causes reservations about its use in that it may have the potential to mask pain and allow the progression of orthopedic disease to the overall detriment of the horse.

Exhibit B.26. PBZ 05 Effectiveness of administration of phenylbutazone alone or concurrent administration of phenylbutazone and flunixin meglumine to alleviate lameness in horses: Establishes justification for the prohibition on ''stacking'' of NSAIDs—medications that are not controlled in human sport, but require control in equine sport for safety reasons and ethical considerations.

Exhibit B.27. Ract 04 Effects of Ractopamine HCl on Physical and Reproductive Parameters in the Horse: This anabolic agent is not addressed in human sport but has been detected in post-race and out of competition samples derived from racehorses. Its presence has been both the result of contamination of commercial feed at the processing site as well as deliberate administration.

Exhibit B.28. Thyro 07 A randomised, controlled trial to determine the effect of levothyroxine on Standardbred racehorses: This prescription medication had widespread use for the (scientifically unsupported) treatment of a multitude of conditions—other than hypothyroidism which is exceedingly rare in the horse. This article elucidates the health risk in its use and justifies the ban as established in the Prohibited List.

Exhibit B.29. Tryp 03 Effects of a commercial dose of L-tryptophan on plasma tryptophan concentrations and behaviour in horses: An example of unregulated, over the counter oral nutraceuticals that have the potential to impact a horse's health, behavior, or mental state—thus exerting a drug-like effect while evading regulation by the FDA. It is for this reason that the Prohibited List is not permissive of the use of these substances during the race period, to be consistent with FDA-approved drugs having similar effects.

1. Banned Substances and Banned Methods—Rule Series 4100

Banned Substances and Banned Methods are set out in categories, including anabolic agents, peptide hormones and growth factors, beta-2 agonists, hormone and metabolic modulators, and diuretics and masking agents (Rule 4110). Banned Methods include blood manipulation, chemical castration or immunocastration, and gene and cell doping (Rule 4120).

2. Controlled Medication Substances and Controlled Medication Methods and Exceptions—Rule Series 4200

Subject to exceptions specified in the Prohibited List (Rule 4212), only feed, hay, and water are permitted during the Race Period (Rule 4211(a)). Accordingly, subject to Rule 4212, any substance administered during the Race Period or present in a Post-Race Sample (including any metabolite(s), artifact(s), and isomer(s) of such substance(s)) that does not otherwise qualify as a Banned Substance shall constitute a prohibited Controlled Medication Substance. In addition, certain Controlled Medication Substances are prohibited from presence in a Post-Work Sample (Rule 4211(b)). Exceptions are provided in Rule 4212 for emergency veterinary care, for certain substances that are permitted up to 24 hours prior to Post-Time (*e.g.,* anti-ulcer medications), electrolyte solutions consumed by the horse by free choice, furosemide (*i.e.,* Lasix/Salix), and for supplements or feed additives that do not have an action or effect on listed mammalian body systems.

Controlled Medication Methods include alkalinization, intra-articular injections, and use of a nasogastric tube within specified time periods (Rule 4220).

3. Ineligibility Periods for Covered Horses—Rule Series 4300

Consistent with section 3057(d) of the Act, Rule 4300 establishes uniform rules setting out the periods of ineligibility that apply to Covered Horses implicated in Anti-Doping Rule Violations or Controlled Medication Rule Violations. The Ineligibility period ranges from zero months to lifetime bans, depending on the category of the substance or method.

Violations involving Controlled Medication Substances will not result in a period of Ineligibility for the Covered Horse. However, the Covered Horse shall be placed on the Veterinarians' List and a Vets' List Workout must be scheduled (at which the horse may be subject to Sample collection). Violations involving Controlled Medication Methods may result in a period of Ineligibility for the Covered Horse where specified in the Prohibited List at Rule 4320.

Covered Horses are not subject to increased Ineligibility periods if they are involved in multiple violations.

4. Rule Series 4000 Appendix: Technical Document—Prohibited Substances

The ''Technical Document—Prohibited Substances'' supplements the Prohibited List (Rule Series 4000) and sets out additional detail concerning Prohibited Substances. The ''Technical Document—Prohibited Substances,'' enumerates specific Prohibited Substances that fall into the general categories listed in the Prohibited List and sets forth detection times, screening limits, and thresholds for those Prohibited Substances. The Technical Document also designates certain Prohibited Substances as Specified Substances, which are those that pose a higher risk of being the result of contamination and that are therefore subject to more flexible sanctions. The following paragraphs describe the rules and specifications applicable to certain categories of medications that vary from the baseline standards enumerated in 15 U.S.C. 3055(g).

i. Anti-Ulcer Medications (Cimetidine, Omeprazole, Ranitidine)

The IFHA has published a restricted administration period that prohibits administration of anti-ulcer medications within 48 hours of the post time for the race in which the horse is entered. HISA in the Protocol recommends a 24-hour restricted administration period.

The basis for this deviation is two-fold: (1) Withdrawal intervals of greater than 24 hours have been identified as an equine welfare issue. Published research demonstrates a rebound effect when anti-ulcer medications are withdrawn for more than 24 hours with resultant ulcers more severe than those originally treated. (2) The IFHA's Advisory Council on Prohibited Substances and Practices will be revisiting the control of these substances, and it is anticipated that the international community will adopt a withdrawal interval strategy similar to the one proposed by HISA.

ii. Non-Steroidal Anti-Inflammatory Drugs (''NSAIDs'') (Flunixin, Ketoprofen, Phenylbutazone)

The IFHA has published a 48-hour Detection Time (DT) for a single NSAID—meclofenamic acid. There is no FDA-approved product containing meclofenamic acid commercially available in the United States. (It is important to note that a Detection Time is the foundation for determining a withdrawal interval, but under no circumstances should the Detection Time be equated with withdrawal guidance. The withdrawal interval is decided by the veterinarian in

consultation with the responsible person for the horse in consideration of their level of risk aversion and their knowledge of the specific horse's health, management, other medications or foreign substances co-administered, and other relevant factors. The withdrawal interval should always be longer than the Detection Time, and in most cases this means adding 24 hours (at a minimum) to the Detection Time.)

The HISA Protocol establishes Screening Limits corresponding to a 48-hour Detection Time for 3 commercially available NSAIDs having FDA-approval for use in the horse. The Protocol allows the veterinarian to select one NSAID that can be administered using a withdrawal interval based on the 48-hourr Detection Time. All other NSAIDs are then controlled applying IFHA Detection Times and Screening Limits, and the detection of more than one NSAID in a horse's sample is a violation. This is philosophically consistent with the IFHA and represents a far more restrictive approach to the use of NSAIDs than currently exists in the United States.

iii. Methocarbamol/Glycopyrrolate

The IFHA is silent on these substances. However, the Asian Racing Federation (a signatory to the IFHA's International Agreement on Breeding, Racing, and Wagering (IABRW)) has published a Screening Limit for methocarbamol. So there is precedent for establishing Screening Limits in addition to those provided by the IFHA. Further, the IFHA's IABRW references the adoption of Screening Limits and advises that a regulatory authority may elect to publish Detection Times.

The Screening Limits and Detection Times for methocarbamol and glycopyrrolate were derived after reviewing the Racing Medication and Testing Consortium's administration study pharmacokinetic data. The elected Screening Limits and corresponding Detection Times ensure withdrawal intervals of sufficient length to prevent the substances from having any potential to impact a horse's racing performance.

iv. Ciclesonide/Lidocaine

The Protocol adheres to IFHA Screening Limits, but, consistent with the requirements of IABRW Article 6, HISA has elected to adopt Detection Times that vary from those of the IFHA. In the case of ciclesonide, the Detection Time is consistent with that used by Racing Australia (also an IFHA member). For lidocaine, HISA elected to use a lower dose in determining a Detection Time, as it believed that IFHA's dosing is too permissive and potentially allows illicit low-dose use on Race Day, which may be undetectable by laboratory testing.

v. Procaine Penicillin

The European Horseracing Scientific Liaison Committee (EHSLC) has established a detection time of 240 hours (10 days) for procaine penicillin. (The EHSLC is the scientific body that the IFHA consults when developing medication control policy.) HISA has determined that the 240-hour detection time could negatively impact horse welfare, through the withholding of appropriate medical treatment. HISA has elected instead to adopt the current ARCI controls, which allow for the use of this safe and effective antibiotic up to 48 hours prior to a race, while still effectively controlling against the illicit use of procaine as a local anesthetic.

e. Terms of Substance: Rule Series 5000—Equine Standards for Testing and Investigation

In accordance with section 3055 of the Act, the Authority has developed Equine Standards for Testing and Investigations to manage test distribution planning (including intelligence-based testing), the sample collection process, and in-competition and out-of-competition testing. The Authority considered the Association of Racing Commissioners International out-of-competition testing standards as a baseline, but also relied in large part on the WADA International Standard for Testing and Investigations, given the comprehensive nature of that standard. All adjustments and modifications to the baseline rules were approved by the Authority in consultation with the ADMC and the Agency in accordance with section 3055(g)(3) of the Act.

In preparing the standards, the Authority consulted with the Agency, the ADMC, and experts in the field to tailor the standards to horseracing. The Authority considered and relied significantly on the following rules:

Exhibit B.2. The ARCI out-of-competition testing standards, Model Rules of Racing (version 11.0). The Authority notes that the Act refers to version 9.2, but the model rules have since been updated. The most recent versions of the ARCI documents are available at *https://www.arci.com/model-rules-standards/*.

Exhibit B.30. WADA International Standard for Testing and Investigations dated January 1, 2021. The most recent versions of the WADA documents are available at *https://www.wada-ama.org/en/resources/*.

1. Testing—Rules 5100–5500 and 5800

The Testing and Investigations Standards sets out how the Agency will plan effective testing by using risk assessments and prioritizing between Covered Horses and types of testing (Rule 5100). As directed by section 3055(c)(4)(C) of the Act, Sample Collection Personnel will notify the Responsible Person or Nominated Person without advance notice that his or her Covered Horse has been selected for testing (Rule 5200), following—as applicable—the procedure set out at Rule 5220 depending on when the sample is collected.

Sample Collection Sessions will be conducted by suitably qualified personnel (Rule 5450), using suitable equipment (Rule 5320), in a suitable ''test barn'' environment (Rule 5310). Samples will be collected in accordance with Rule 5400, in particular to ensure that the sample is of suitable quality and quantity, is clearly and accurately identified, is sealed in a tamper evident kit, and has not been manipulated or tampered with. Further specific procedures and requirements apply to the collection of urine samples (Rule 5420), blood samples (Rule 5430), and hair samples (Rule 5440).

Once collected, Samples will be stored and transported by Sample Collection Personnel in a manner that protects the integrity, identity, and security of the Samples (Rules 5510 and 5520).

2. Investigations—Rule 5600–5700

As directed by the Act, the Agency will put in place internal processes and procedures to ensure it is able to gather, analyze, and process anti-doping and medication control intelligence from all available sources in order to help deter and detect doping and medication abuse, to inform effective, intelligent, and proportionate test distribution planning, to plan intelligence-based Target Testing, and to conduct investigations (Rule 5600).

Further, the Agency will conduct efficient and effective investigations into (among other things) atypical findings and other sample abnormalities, and other analytical or non-analytical information or intelligence. The purpose of such investigations is to either rule out or develop evidence that supports an anti-doping or controlled medication rule violation or other violation of the Protocol (Rule 5710). The Agency will make use of all investigative resources available to it, which may include obtaining information from law enforcement authorities and other

regulators (Rule 5730). The Agency may also exercise the investigative powers conferred under applicable rules, including powers of inspection, examination, seizure, production of documents, request to the Authority for the issuance of subpoenas, and the conduct of interviews). All Covered Persons are required to cooperate with the Agency's investigations in the manner set forth in the rules, and failure to cooperate may result in the imposition of sanctions (Rule 5720(f)).

f. Terms of Substance: Rule Series 6000—Equine Standards for Laboratories and Accreditation

As directed by sections 3053, 3055, and 3057 of the Act, the Authority has developed the Equine Standards for Laboratories and Accreditation (''Laboratory Standards'') using the WADA International Standard for Laboratories as a baseline. All adjustments and modifications to the baseline rules were approved by the Authority in consultation with the ADMC and the Agency in accordance with section 3055(g)(3) of the Act.

Exhibit B.31. WADA International Standard for Laboratories dated January 1, 2021. The Authority notes that the Act refers to the WADA International Standard for Laboratories (version 10.0) dated November 12, 2019, but that version has since been updated by WADA. The most recent versions of the WADA documents are available at: *www.wada-ama.org/en/resources/*.

As directed by the Act at section 3057(b), the Laboratory Standards establish standards of accreditation for laboratories involved in testing samples from Covered Horses; the process for achieving and maintaining accreditation; and the standards and protocols for testing of such samples. The Laboratory Standards will be supported by technical documents, letters, notes, and laboratory guidelines, as appropriate.

The Laboratory Standards also cross refer in a number of places to the ISO/IEC 17025 standard. Laboratories must obtain ISO/IEC 17025 accreditation before receiving HISA Equine Analytical Laboratory (''HEAL'') accreditation.

Exhibit B.32. ISO/IEC 17025:2017. The Authority consulted with laboratory experts in order to tailor the Laboratory Standards to horseracing laboratories and to reflect the specificities of equine sport. As part of its review, the Authority considered the ILAC–G7:04/2021 Accreditation Requirements and Operating Criteria for Horseracing Laboratories, which may inform subsequent Technical Documents.

Exhibit B.33. ILAC–G7:04/2021 Accreditation Requirements and Operating Criteria for Horseracing Laboratories. The most recent versions of the International Laboratory Accreditation Cooperation (''ILAC'') standards are available at: *https://ilac.org/publications-and-resources/ilac-guidance-series/*.

1. Laboratory Accreditation—Rule Series 6100 and 6500

In accordance with sections 3055(c) and 3057(b) of the Act, the Laboratory Standards establish the requirements for obtaining HISA Equine Analytical Laboratory (''HEAL'') accreditation, and the requirements and standards for maintenance of HEAL accreditation. The rules set out a procedure by which laboratories may achieve HEAL accreditation, starting with an application and the granting of ''candidate laboratory'' status. The candidate laboratory must provide specified information to the Agency, perform pre-probationary testing to identify prohibited substances in samples, and complete an on-site assessment. The Agency will assess the outcomes of those processes and any non-conformities identified, and the candidate laboratory will have a specified period of time to remedy those non-conformities with corrective actions (Rule 6110).

If a candidate laboratory is granted probationary accreditation status, it will be accredited by the Agency, with a probationary period of two years or until analysis of 2,500 samples has been performed, whichever occurs first. If the probationary period is successfully completed and the laboratory successfully completes a final accreditation test, the Agency will grant accreditation to the laboratory (Rule 6120).

The rules impose continuing obligations on each laboratory that must be satisfied in order to maintain HEAL accreditation (Rule 6130), including maintenance of ISO/IEC 17025 accreditation, satisfactory participation in the Agency External Quality Assessment Scheme (''EQAS'') whereby laboratories are sent samples to be analyzed (blind or for specified substances), compliance with the code of ethics (which is set out in full at Rule 6600), and continued research and development activities and sharing of knowledge.

The Agency will regularly monitor and review the compliance of each laboratory with its ongoing accreditation obligations (Rule 6140). A laboratory's HEAL accreditation may be suspended or revoked, or subjected to specified analytical testing restrictions if (among other things) the laboratory fails to comply with the Laboratory Standards or other Agency requirements (Rules 6510 and 6520). The rules set out the effects of such decisions on Agency-related laboratory activity and the transfer of samples to other laboratories pending resolution of the matter (Rule 6560), and provide for reinstatement of the laboratory if it has remedied the non-compliance that resulted in the Agency's decision.

2. Laboratory Quality Monitoring—Rule Series 6200, 6400, and 6600

The Agency will regularly distribute External Quality Assessment Scheme (EQAS) samples in order to monitor the capabilities of laboratories and probationary laboratories, evaluate their proficiency, and improve test result uniformity between laboratories (Rule 6210). Some of these samples are blind (the laboratory will know it is an EQAS sample but will not know its contents), some are double-blind (the laboratory will not know it is an EQAS sample or know its contents), and some are educational (the laboratory will know it is an EQAS sample and will know its contents) (Rule 6220). EQAS samples should be analyzed in a manner substantially similar to that applied to routine samples, unless otherwise specified by the Agency, and results reported to the Agency (Rules 6250 and 6260).

The Agency will evaluate laboratory EQAS results and, as necessary and appropriate, inform the laboratory of any technical, methodological, or clerical errors that should be remedied. If such errors are remedied, no penalty will be imposed (Rule 6410). The Agency may request corrective action reports that detail actions taken to correct any non-conformity or other issue (Rule 6420). The annual EQAS evaluation will be a factor in assessment of HEAL accreditation and maintenance of HEAL accreditation.

3. Analysis of Samples—Rule Series 6300

The Laboratory Standards set out a process for the withdrawal of accreditation if the relevant requirements and standards are not met. The Laboratory Standards also ensure that laboratories report valid test results based on reliable evidentiary data and facilitate harmonization in analytical testing of Samples by laboratories.

The rules also contain detailed standards for the analysis of samples (section 6300). When analyzing a sample, the laboratory will prepare an aliquot, select the analytical testing

procedure, and conduct the initial testing procedure, with the objective of obtaining information about the potential presence of prohibited substances in the sample (Rule 6308). The laboratory will then conduct the confirmation procedure to obtain a result that either supports or does not support the reporting of an adverse analytical finding or atypical finding, in particular, by identifying and sometimes quantifying—for example in the case of a threshold substance—a prohibited substance in the sample (Rules 6309 and 6311). The laboratory must conduct a detailed review of the analysis (Rule 6315) and report all results to the Agency (Rule 6316).

An important amendment to the baseline rules is that any B sample analysis will be conducted by a different laboratory than the one that performed the A sample analysis, unless the Agency considers that is not possible due to due to (i) reasonable concerns over Sample integrity or unstable analytes; or (ii) because no other Laboratory is available to perform the B Sample procedure within a reasonable period of time (Rule 6312).

If the laboratory reports an adverse analytical finding for the A sample, and the Covered Person requests or the Agency orders that the B sample be analyzed, the laboratory will promptly transfer the B sample to the laboratory specified by the Agency, and that (second) laboratory will perform the B sample procedure and analysis (Rule 6312). The samples will be stored and may be subject to further analysis if directed by the Agency (Rules 6313 and 6319).

e. Terms of Substance: Rule Series 7000—Arbitration Procedures

In accordance with sections 3053(a)(10) and 3057(c) of the Act, the Arbitration Procedures set out a disciplinary process for the hearing and adjudication of Anti-Doping Rule Violations, Controlled Medication Rule Violations, and other related offenses. As directed by section 3057(c)(3), the procedures were developed to provide for adequate due process, including impartial hearing panels commensurate with the seriousness of the alleged violation. Different procedures apply to Anti-Doping Rule Violations (heard by the Arbitral Body) as compared to Controlled Medication Rule Violations (heard by the Internal Adjudication Panel, which may adjudicate the matter on written submissions alone.

1. Dispute Resolution Frameworks—Rules 7010–7050

The arbitrators on the Arbitral Body will be appointed by the Agency for four-year terms (Rule 7030). Members of the Internal Adjudication Panel will be appointed by the Agency for four-year terms (Rule 7040). Members of the Arbitral Body and Internal Adjudication Panel will receive mandatory annual training and education on issues relating to the proper handling of cases (Rule 7050).

2. Initiating Proceedings—Rules 7060–7160

If a Covered Person is charged with an Anti-Doping Rule Violation or Controlled Medication Rule Violation, proceedings will be initiated with the appropriate adjudicator by the Agency. The adjudicator will be appointed by the arbitral body or by the coordinator of the Internal Adjudication Panel, as applicable (Rule 7130), and the rules establish a process by which parties may challenge the adjudicator's appointment in appropriate circumstances. The adjudicator has broad powers to manage the proceedings, including the power to issue orders for expedited procedures, rule on their own jurisdiction, and consolidate proceedings.

3. Hearings and Evidence—Rules 7170–7330

In cases involving Anti-Doping Rule Violations or related violations, the rules set out a procedure for the exchange of written submissions and evidence (Rule 7170), and for the conduct of hearings (Rule 7250). The Arbitral Body has broad discretion to determine the admissibility, relevance and materiality of evidence offered, and may, if necessary and appropriate, order production (Rule 7260 and 7270) or interim measures (Rule 7280) or resolve challenges to provisional suspensions at a provisional hearing (Rule 7290).

In cases involving Controlled Medication Rule Violations and related violations, and other violations of the Protocol, a more streamlined and flexible process applies (Rule 7180).

4. Decisions—Rules 7240–7450

In all cases, a final decision will be issued and the adjudicator may grant any remedy or relief authorized by the Protocol (Rule 7340–7350). Final decisions issued by the Arbitral Body or Internal Adjudication Panel are subject to review as specified in section 3058 of the Act (Rule 7400).

III. Self-Regulatory Organization's Summary of Comments Received Pre-Submission and Its Responses to Those Comments

As encouraged by the Commission's procedural rule, the Authority, before finalizing this submission to the Commission, made a draft of the Anti-Doping and Medication Control proposed rule available to the public for review and comment on the HISA website, *https://www.hisausregs.org/*, beginning on June 1, 2022. Comments on the Anti-Doping and Medication Control proposed rule were received from various individuals and groups in the horseracing industry.

The stakeholder feedback received was constructive and well-considered. All submitted comments were carefully reviewed by the Authority as well as by the ADMC and the Agency. Those collected comments are available as Exhibit A on the docket at *https://www.regulations.gov*. The Authority also engaged with a number of stakeholders through follow-up conference calls to further analyze their comments and discuss any questions raised. The stakeholder comments informed a number of adjustments and modifications to the proposed rules, as explained in more detail below. The open consultation process and stakeholder engagement is an important process and one that is intended to build consensus where possible within the industry.

The following is a summary of the substance of the comments received. The following also summarizes the Authority's response to the significant issues raised in the comments, and the manner in which the Authority has addressed those comments in developing the proposed rules submitted to the Commission. In a few instances the Authority declined to make a suggested change, though the Authority will consider the suggestions made in the course of future rulemaking.

1000 Series—General Provisions

The Authority revised the definition of ''Race Day'' based on comments received, amending it so that the period will end one hour after the end of the Official Workout or Covered Horserace or at the end of any Sample collection process, whichever is later, instead of ending at 23:59 (11:59pm) on the day of the Official Workout/Covered Horserace as previously stated. This revision was made to take account of horse welfare, recognizing in particular that once a horse has been subject to sample collection, or it has been decided that a

horse will not be selected for sample collection, the horse should not be prohibited from receiving any necessary therapeutic treatments post-race that are permitted outside the Race Period. The end of the ''Race Day'' now also coincides with the end of the ''Race Period.''

The definition of ''Tampering'' was adjusted to make clear that it does not include the actions of bona fide veterinary personnel involving a Controlled Medication Substance or Controlled Medication Method used for genuine and legal therapeutic purposes or other acceptable justification. This addition mirrors the wording used in the definition of ''Administration,'' which includes the same important carve-out.

3000 Series—Equine Anti-Doping and Controlled Medication Protocol

Some commenters expressed the strong opinion that there is a material difference between the use of doping substances to unfairly affect the performance of horses, as opposed to errors in the administration of recognized therapeutic substances. The Authority agrees that this is a vital distinction, and the Protocol recognizes the distinction in the penalty structure and other provisions throughout the Protocol.

Further detail on the meaning of ''Owner'' has been provided to take account of the varied and sometimes complex ownership structures in horseracing (Rule 3020(c)).

The term ''Responsible Person'' defined in Rule 3030 has been simplified to make clear that the trainer of a Covered Horse is the Responsible Person for that horse. In circumstances where the horse does not have a Trainer, the Owner is the Responsible Person. The Responsible Person is personally liable for his or her Covered Horse(s). However, other Covered Persons (including veterinarians, among others) who made a relevant decision about the Covered Horse may be found to be complicit in a violation and may be liable to the same extent as the Responsible Person.

In response to comments received, the Authority removed the disciplinary provisions concerning hypodermic needles, because equivalent provisions are included in the Rule 2000 Series (Racetrack Safety Program).

Some commenters proposed increasing the sanctions applicable to repeat medication violation offenders and lengthening the period of time that such violations would remain on their ''official record.'' The limitation period and roll-off period for Controlled Medication Rule Violations has been increased from one to two years, and a multiple violation penalty points system, modelled on the ARCI system, has been added. As a consequence, in addition to any sanction received for the underlying Controlled Medication Rule Violation, a Covered Person will also receive a certain number of penalty points which accumulate over a two-year period. When the points thresholds are exceeded, additional sanctions will be imposed (in a manner similar to the points system in the driver's licensing violation system).

A number of commenters requested that Controlled Medication Substances be stratified into different classes, with individual screening limits prescribed for each category. The Authority has done so by classifying Controlled Medication Substances into Classes A to C in the Technical Document-Prohibited Substances, which supplements the Prohibited List. The sanctions in the Protocol in turn depend on the class of substance in issue.

Commenters requested clarification of the requirement that a Responsible Person make a Covered Horse available for testing ''at any time and place.'' The Protocol was clarified to specify that the Covered Horse must be available for testing at any time and place where the horse is located (*e.g.,* Racetrack, Training Facility, private facility). The Protocol was also clarified to specify that Responsible Persons shall ensure that the Covered Horse is produced for Sample collection immediately upon notification by a duly authorized Person, or, if the horse is not available at the location for Testing, within 6 hours of notification by a duly authorized Person (or if the Agency agrees to extend that time period due to extenuating circumstances, then within such extended time period). Failure to produce a Covered Horse for Sample collection within six hours (or any extended period agreed by the Agency) shall constitute a violation of Rule 3215 (evasion, or refusal or failure to submit to Sample collection). Sample collection shall ordinarily be conducted where the Covered Horse is located (*e.g.,* Racetrack, Training Facility, or private facility), unless the Agency agrees that the Covered Horse may be transported to another agreed location (*e.g.,* a nearby Racetrack).

In response to comments received, the Authority extended the period of inactivity of a Covered Horse from 12 to 18 months, after which the horse may be retired by the Authority, subject to an objection by the Owner of the horse. This change was based on the rationale that horses may suffer injuries that require a 12-month recovery period (such as tendon injuries).

The Protocol was modified to clarify that where a horse's Sample reveals the presence of more than one Controlled Medication Substance above the applicable thresholds (if any), each substance may be treated as a separate presence violation.

The Protocol was revised to clarify that Covered Persons may request clearance testing to be conducted on their Covered Horses by a Laboratory, but only if such request is authorized by the Authority in advance and paid for by the Covered Person, and provided that such samples will be treated in the same way as official Post-Race Samples, such that any violation detected may be pursued by the Agency.

Some concerns were expressed regarding how cases involving environmental contamination would be handled and publicized. The Authority has incorporated an ''Atypical Findings Policy'' as Appendix 1 to the Rule 3000 Series. The Policy allows for certain substances to be investigated first as Atypical Findings before being pursued as Adverse Analytical Findings. If further to such investigation it is determined that the positive test was the result of environmental contamination, the matter will not be pursued as an Adverse Analytical Finding, and the Atypical Finding will not be publicly disclosed.

The Authority has added provisions to the Protocol to clarify the provisions on claimed horses. Some commenters expressed the concern that testing every horse in a claiming race would be excessive. In particular, Rule 3060 provides that a claimed horse may be subject to Sample collection at a claiming race if elected (and paid for) by the claimant. If the analysis of such Sample(s) results in an Anti-Doping Rule Violation or Controlled Medication Rule Violation, the claim may be voided at the option of the claimant and the claimant shall be entitled to return of all sums paid for the claimed horse and of all expenses incurred after the date of the claim.

Commenters also expressed the opinion that use of Lasix should not be prohibited during training. The Protocol does not prohibit the use of Lasix during training (see Rule 4212(d)).

4000 Series—Prohibited List

The key change made based on comments received was the development of the ''Technical Document—Prohibited Substances,'' which supplements the Prohibited List. The Technical Document provides additional detail concerning the

Prohibited Substances that fall into the general categories established in the Prohibited List, and sets forth detection times, screening limits, and thresholds for those Prohibited Substances. The Technical Document also designates certain Prohibited Substances as Specified Substances. Specified Substances are those substances that pose a higher risk of being the result of contamination, and that are therefore subject to more flexible sanctions.

Comments were also received urging that anti-ulcer medications should be permitted within 24 hours prior to a race. The ADMC considered that proposition further, including the scientific paper referenced below, which shows that the pH of gastric fluids returns to baseline 24 hours after treatment with Omeprazole (an anti-ulcer medication). Given that pH directly affects the development of ulcers, the paper supports the use of anti-ulcer medications up to 24 hours prior to Post-Time. To require a longer withdrawal interval means that the stomach lining of a horse could be vulnerable to the recrudescence of gastric ulceration.

Exhibit B.34. Jessica Wise et al., *Pharmacokinetic and pharmacodynamic effects of 2 registered omeprazole preparations and varying dose rates in horses,* J. Veterinary Internal Medicine (Nov. 2020), *https://doi.org/10.1111/jvim.15971*.

5000 Series—Equine Testing and Investigations Standards

In addition to a number of minor revisions based on the comments received, the Authority added a section to address procedures for total carbon dioxide (''TCO2'') testing, *i.e.,* testing blood samples for total carbon dioxide as evidence of use or administration of the Controlled Medication Method M4 (alkalinization or use/administration of an alkalinizing agent) (see Rule 5430).

6000 Series—Equine Standards for Laboratories and Accreditation

A number of minor revisions were made based on the detailed comments received and further consultation with laboratory experts. Some duplication with ISO/IEC 17025 was also removed, in particular in section 6300.

7000 Series—Arbitration Procedures

Some commenters expressed confusion concerning the role of racing stewards in the adjudication body previously designated as the ''National Stewards Panel.'' The body is now designated as the ''Internal Adjudication Panel,'' with individual members referred to as Internal Adjudication Panel (''IAP'') members instead of ''stewards.''

The procedure for Controlled Medication Rule Violations was developed partly in response to requests by commenters to provide for a simplified hearing process for Covered Persons charged with a violation. The procedures allow the IAP members adjudicating the case to dispense with written filings and permit the Covered Person to make an oral presentation in a hearing context. This procedure allows the adjudication process to dispense where appropriate with certain of the more formal and costly aspects of legal proceedings.

The Arbitration Procedures were also clarified to specify that hearings regarding alleged breaches of the Protocol will not be open to the media or the public, and to specify the Owners who may attend hearings involving Covered Horses when the horse is owned by multiple persons or entities.

The Arbitration Procedures were also clarified to specify that while document production requests may be permitted, discovery or other wide-ranging document requests are not permitted.

Minor Corrections Made to October 2022 Proposed Rule

Based on stakeholder comments and further review, the Authority has made a few minor corrections to the proposed rule previously filed with the Commission. Minor corrections were made to the Technical Document, including (i) correcting certain references to thresholds throughout the Technical Document, to ensure consistency with the approach taken by the IFHA; (ii) correcting a typographical error regarding the threshold for ketoprofen, which is 2ng/ml, as approved by the ADMC, as noted in a correction published November 4, 2022, 87 FR 66705; (iii) adding a comment about pemoline that was mistakenly deleted from the previous version; (iv) correcting certain minor typographical errors in the spelling of substance names; (v) capitalizing defined terms; and (vi) other minor amendments to ensure consistency across the document, including deletion of duplicate entries.

Certain other minor corrections were made to the proposed rule, including (i) clarifying, in the definition of ''Aggravating Circumstances,'' that one or both of an additional period of ineligibility or fine may be imposed; (ii) correcting Rule 3346(a) to clarify that the Responsible Person and Owner and one representative each may attend the Laboratory to witness the opening and identification of the B sample; (iii) adding ''to the extent possible'' in Rule 5220(b)(iv)(B) for consistency with other similar provisions; (iv) specifying in Rule 5320 that sample collection equipment must be able to withstand −20°C rather than −80°C, consistent with industry standard; (v) removing the requirement for a signature in Rule 5410(i)(1) because the personnel tagging the horse at the end of the race will not accompany the horse to the Test Barn and the signing of the doping control documentation will occur at a later stage in the sample collection process (see Rule 5410(i)(10)); (vi) minor corrections to Rules 5420(j) and 5430(e) by striking ''within the kit,'' as it was not consistent with collection kits available in the industry; (vii) amending references to the ''BCO or DCO'' in Rule 5430(e) to ''relevant Sample Collection Personnel'' for consistency with other similar provisions; (viii) amending Rules 5420(n) and 5430(k) to clarify that copies of doping control documentation will be sent to the Responsible Person subsequently and not instantaneously; and (ix) adding a reference to ''or refrigerator'' in Rule 5510(b)(1) because, if urine samples are not shipped on the day of collection, they will be refrigerated rather than frozen.

Minor typographical errors, such as extra spaces, spelling errors, and punctuation, were corrected as well.

IV. Legal Authority

This rule is proposed by the Authority for approval or disapproval by the Commission under 15 U.S.C. 3053(c)(1).

V. Effective Date

This rule would take effect upon approval by the Commission, and the Commission must approve or disapprove the rule by March 27, 2023.

VI. Request for Comments

Members of the public are invited to comment on the Authority's proposed rule. The Commission requests that factual data on which the comments are based be submitted with the comments. The supporting documentation referred to in the Authority's filing, as well as the written comments it received before submitting the proposed rule to the Commission, are available for public inspection at *https://www.regulations.gov* under docket number FTC–2023–0009.

The Commission seeks comments that address the decisional criteria provided by the Act. The Act gives the Commission two criteria against which to measure proposed rules and rule modifications: ''The Commission shall approve a proposed rule or modification if the Commission finds that the

proposed rule or modification is consistent with—(A) this chapter; and (B) applicable rules approved by the Commission.'' [7] In other words, the Commission will evaluate the proposed rule for its consistency with the specific requirements, factors, standards, or considerations in the text of the Act as well as the Commission's procedural rule.

Although the Commission evaluates the Authority's proposed rule for its consistency with the Act and the Commission's procedural rule, the Commission may consider broader questions—about the health and safety of horses and jockeys, the integrity of horseraces and wagering on horseraces, and the administration of the Authority itself—in another context: ''The Commission . . . may abrogate, add to, or modify the rules of the Authority promulgated in accordance with this Act as the Commission finds necessary or appropriate to ensure the fair administration of the Authority, to conform the rules of the Authority to requirements of this Act and applicable rules approved by the Commission, or otherwise in furtherance of the purposes of this Act.'' [8] The Commission may exercise this rulemaking power on its own initiative or in response to a petition from a member from the public. If members of the public wish to provide comments to the Commission about its use of the rulemaking power, they are encouraged to submit a petition requesting that the Commission issue a rule addressing the subject of interest. The petition must meet all the criteria established in the Rules of Practice (part 1, subpart D); [9] if it does, the petition will be published in the **Federal Register** for public comment. In particular, the petition for a rulemaking must ''identify the problem the requested action is intended to address and explain why the requested action is necessary to address the problem.'' [10]

VII. Comment Submissions

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before February 9, 2023. Write ''HISA Anti-Doping and Medication Control'' on your comment. Your comment—including your name and your State—will be placed on the public record of this proceeding, including, to the extent practicable, on the website *https://www.regulations.gov*.

Because of public health measures and the Commission's heightened security screening, postal mail addressed to the Commission will be subject to delay. We strongly encourage you to submit your comments online through the *https://www.regulations.gov* website. To ensure that the Commission considers your online comment, please follow the instructions on the web-based form.

If you file your comment on paper, write ''HISA Anti-Doping and Medication Control'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex B), Washington, DC 20580.

Because your comment will be placed on the public record, you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not contain sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other State identification number or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''[t]rade secret or any commercial or financial information which * * * is privileged or confidential''—as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule § 4.10(a)(2), 16 CFR 4.10(a)(2)—including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule § 4.9(c), 16 CFR 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule § 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted publicly at *https://www.regulations.gov*—as legally required by FTC Rule § 4.9(b), 16 CFR 4.9(b)—we cannot redact or remove your comment, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule § 4.9(c), and the General Counsel grants that request.

Visit the FTC website to read this document and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments it receives on or before February 9, 2023. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *https://www.ftc.gov/siteinformation/privacypolicy*.

VIII. Communications by Outside Parties to the Commissioners or Their Advisors

Written communications and summaries or transcripts of oral communications respecting the merits of this proceeding, from any outside party to any Commissioner or Commissioner's advisor, will be placed on the public record. *See* 16 CFR 1.26(b)(5).

IX. Self-Regulatory Organization's Proposed Rule Language

1000. General Provisions

Rule 1010. Rules of Interpretation

Unless specified otherwise:

(a) words in the singular include the plural, and words in the plural include the singular;

(b) references to any ''Rule'' or ''Rule Series'' are references to the rules or rule series approved by the Commission pursuant to section 3053 of the Act;

(c) any Appendices to a Rule Series form an integral part of such Rule Series;

(d) any reference to a provision in rules, protocols, policies, standards, guidelines, or similar includes any modifications or successor provisions made or issued from time to time;

(e) any reference to legislation includes any modification or re-enactment of legislation enacted in substitution of that legislation, and any regulation or other instrument from time to time issued or made under that legislation;

(f) any term defined in this Rule 1000 Series shall supersede the definition of that term in the Rule 2000 Series;

[7] 15 U.S.C. 3053(c)(2).

[8] 15 U.S.C. 3053(e) (as amended by the Consolidated Appropriations Act, 2023, H.R. 2617, 117th Cong., Division O, Title VII (2022)).

[9] 16 CFR 1.31; *see* Fed. Trade Comm'n, Procedures for Responding to Petitions for Rulemaking, 86 FR 59851 (Oct. 29, 2021).

[10] 16 CFR 1.31(b)(3).

(g) a reference to ''writing,'' ''write,'' or ''written'' includes communications transmitted by email;

(h) a reference to ''may'' means ''in the sole and absolute discretion of such person or body'';

(i) a reference to a ''day'' means any day of the week and is not limited to working days;

(j) any time limits shall begin from the day after which the relevant notification is received (or the day after the relevant notification is sent, if sent by email). Official holidays and non-working days are included in the calculation of time limits. The time limits fixed under this Protocol are respected if the communications by the parties are sent before midnight (U.S. Eastern time) on the last day on which such time limits expire. If the last day of the time limit is an official holiday or a non-business day in the state or country where the notification has been made, the time limit shall expire at the end of the first subsequent business day;

(k) a reference to a ''person'' (with no initial capital letter) means a natural person; and

(l) any words following the terms ''including,'' ''include,'' ''in particular,'' ''such as,'' ''for example,'' or any similar expression, are illustrative only, and do not limit the sense of the words, description, definition, phrase, or term preceding those terms.

Rule 1020. Definitions

Act means the Horseracing Integrity and Safety Act of 2020 (15 U.S.C. 3051–3060), as amended from time to time.

ADMC means the Anti-Doping and Medication Control Standing Committee of the Authority.

Administration means providing, supplying, supervising, facilitating, or otherwise participating in the Use or Attempted Use in a Covered Horse of a Prohibited Substance or Prohibited Method. However, this definition shall not include the actions of bona fide veterinary personnel involving a Controlled Medication Substance or Controlled Medication Method used for genuine and legal therapeutic purposes or other acceptable justification.

Adverse Analytical Finding (''AAF'') means a report from a Laboratory that, consistent with the Laboratory Standards, establishes in a Sample the presence of a Prohibited Substance or its Metabolites or Markers or evidence of the Use of a Prohibited Method.

Agency means the anti-doping and controlled medication enforcement agency known as the Horseracing Integrity and Welfare Unit.

Aggravating Circumstances means circumstances involving, or actions by, a Covered Person that may justify the imposition of one or both of a period of Ineligibility or fine greater than the otherwise applicable standard sanction. Such circumstances and actions include those set forth in Rule 3227 or Rule 3327 (as applicable).

Aliquot means a portion of the Sample obtained from the Covered Horse.

Analyte means a substance, compound, or measurand that is analyzed or determined in a biological matrix using an Analytical Testing Procedure performed under controlled analytical and laboratory conditions. For anti-doping and controlled medication purposes, an Analyte may be a Prohibited Substance, a Metabolite of a Prohibited Substance, or a Marker of the Use of a Prohibited Substance or Prohibited Method.

Analytical Method has the same meaning as Analytical Testing Procedure.

Analytical Testing means the parts of the Doping Control or Medication Control process performed at the Laboratory, which includes Sample handling, analysis, and the reporting of results.

Analytical Testing Procedure means a Fit-for-Purpose procedure, as demonstrated through method validation, that is used to detect, identify or quantify Analytes in a Sample in accordance with the Laboratory Standards and relevant Technical Document(s), Technical Letter(s), Technical Note(s), or Laboratory Guidelines. Unless the context otherwise requires, Analytical Testing Procedure is also referred to or known as an Analytical Method or Test Method.

Analytical Testing Restriction (''ATR'') means a restriction on a Laboratory's application of specified Analytical Testing Procedure(s) or on the analysis of a particular class(es) of Prohibited Substances or Prohibited Methods to Samples, as determined by the Agency.

Anti-Doping Rule Violation (''ADRV'') means an anti-doping rule violation under the Protocol.

Arbitral Body has the meaning given to it in the Rule 7000 Series.

Arbitration Procedures means the arbitration procedures set forth in the Rule 7000 Series.

Assistant Trainer means a person engaged in the training of Covered Horses, under the direct or indirect supervision of a Trainer.

Association Veterinarian means a Veterinarian employed by a Racetrack.

Attempt means purposely engaging in conduct that constitutes a substantial step in a course of conduct planned to culminate in the commission of an Anti-Doping Rule Violation or Controlled Medication Rule Violation; provided, however, that there shall be no Anti-Doping Rule Violation or Controlled Medication Rule Violation based solely on an Attempt to commit a violation if the Covered Person renounces the Attempt prior to it being discovered by a third party not involved in the Attempt.

Attending Veterinarian means a Veterinarian providing treatment or services to Covered Horses hired or otherwise authorized by the Trainer or Owner or his or her respective designee.

Atypical Finding means a report from a Laboratory that requires further investigation in accordance with the Atypical Findings Policy set out at Appendix 1 to the Protocol, prior to the determination of whether it is an Adverse Analytical Finding.

Atypical Findings Policy means the policy set out at Appendix 1 to the Protocol.

Authority means the Horseracing Integrity and Safety Authority designated by section 3052(a) of the Act.

Banned Method has the meaning given to it in Rule 3111.

Banned Substance has the meaning given to it in Rule 3111.

Batch means a set of Samples processed as a group.

Bias means deviation of a measured result from the expected or reference value when using the complete measurement procedure.

Billing Standards means the standards governing compensation for arbitrators and stewards under the Arbitration Procedures.

Blood Collection Officer (''BCO'') means a Veterinarian or a veterinary technician who has been authorized by the Agency (or its delegate) to collect blood Samples from a Covered Horse.

Breeder means a Person who is in the business of breeding Covered Horses.

Certified Reference Material (''CRM'') means Reference Material characterized by a metrologically valid procedure for one or more specified properties, which is accompanied by a certificate that provides the value of the specified property, its associated uncertainty, and a statement of metrological traceability.

Certifying Scientists means personnel appointed by a Laboratory to review all pertinent analytical data, Analytical Method validation results, quality control results, Laboratory Documentation Packages, and to attest to the validity of the Laboratory's test results.

Chain of Custody means the sequence of individuals or organizations who

have responsibility for the custody of a Sample from the provision of the Sample until the Sample has been delivered to the Laboratory for analysis.

Chaperone means a person authorized by the Agency (or its delegate) to carry out the responsibilities given to Chaperones in the Testing and Investigations Standards or by the DCO.

Charge Letter has the meaning given to it in (as the context requires) Rule 3248 or Rule 3348.

Claim means, in the context of a Claiming Race, the purchase of a Covered Horse for a designated amount.

Claiming Race means a Covered Horserace in which a Covered Horse after leaving the starting gate may be claimed in accordance with the rules and regulations of the applicable State Racing Commission.

Code of Ethics means the Code of Ethics for Laboratories set forth at Rule 6610.

Commission means the Federal Trade Commission.

Confirmation Procedure (''CP'') means an Analytical Testing Procedure that has the purpose of confirming the presence in a Sample—or, when applicable, confirming the concentration, ratio, or score, or establishing the origin (exogenous or endogenous)—of one or more specific Prohibited Substances, Metabolite(s) of a Prohibited Substance, or Marker(s) of the Use of a Prohibited Substance or Prohibited Method.

Consequences means the penalties resulting from the occurrence of one or more violations of the Protocol, as set forth in the Rule 3000 Series. The Consequences for an Anti-Doping Rule Violation or a Controlled Medication Rule Violation may include one or more of the following:

(1) Disqualification;
(2) Ineligibility;
(3) Provisional Suspension;
(4) financial penalties; and
(5) Public Disclosure.

Contaminated Product means a product other than feed, hay, or water, that contains a Prohibited Substance that (i) is not disclosed on the product label, and (ii) a Veterinarian or Trainer would not otherwise reasonably be aware might be included in the product.

Controlled Medication Method means any method so described on the Prohibited List.

Controlled Medication Rule Violation has the meaning given to it in Rule 3311(a).

Controlled Medication Substance means any substance so described on the Prohibited List or the Technical Document–Prohibited Substances.

Corrective Action Report (''CAR'') means a report describing the Root Cause Analysis of a nonconformity and the corrective actions implemented to rectify it. If appropriate, it shall also describe the improvements adopted to minimize the risk of recurrence of the nonconformity.

Covered Horse means any Thoroughbred horse, or any other horse made subject to the Act by election of the applicable State Racing Commission or the breed governing organization for such horse under section 3054(*l*), during the period: (A) beginning on the date of the horse's first Timed and Reported Workout at a Racetrack that participates in Covered Horseraces or at a training facility; and (B) ending on the date on which the horse is deemed retired pursuant to Rule 3050(b).

Covered Horserace means any horserace involving Covered Horses that has a substantial relation to interstate commerce, including any Thoroughbred horserace that is the subject of interstate off-track or advance deposit wagers.

Covered Person means all Trainers, Owners, Breeders, Jockeys, Racetracks, Veterinarians, Persons licensed by a State Racing Commission, and the agents, assigns, and employees of such Persons; any other Persons required to be registered with the Authority; and any other horse support personnel who are engaged in the care, treatment, training, or racing of Covered Horses.

Decision Limit means the value of the result for a Threshold Substance in a Sample, above which an Adverse Analytical Finding shall be reported.

Designated Owner has the meaning given to it in Rule 3020(c).

Detection Time means the interval after a medication is administered during which it is detectable in a specific matrix (serum, plasma, urine, or hair) from any member(s) of a group of test horses. Detection times are determined from analysis of samples collected at specific time points following an administration of a medication to group of, potentially as few as 2, test horses. A detection time is not the same as a withdrawal time. The withdrawal time for a medication must be decided upon by a Veterinarian (in consultation with the Responsible Person) and is likely to be based on the Detection Time and an added safety margin. This margin should be determined using professional judgment and discretion to take into account the variability that could be expected to normally occur in a larger population by considering individual differences between horses, such as size, metabolism, fitness, health, or recent illness or disease. The withdrawal interval used for a medication should always be longer than its Detection Time.

Disqualification means the results of a Covered Horse in a particular Covered Horserace are invalidated, with all resulting consequences, including forfeiture of any purses and other compensation, prizes, trophies, points, and rankings associated with such Covered Horserace.

Doping Control means all steps and processes from test distribution planning through to ultimate disposition of any adjudication and review process pursuant to the Protocol and the Act involving an Anti-Doping Rule Violation and the enforcement of Consequences, including all steps and processes in between, including Testing, investigations, whereabouts program, Sample collection and handling, Laboratory analysis, Results Management, hearings and reviews, and investigations and proceedings relating to Anti-Doping Rule Violations not arising from or related to Testing or violations of Rule 3229.

Doping Control Officer (''DCO'') means an official who has been authorized by the Agency (or its delegate) to carry out the responsibilities given to DCOs in the Testing and Investigations Standards and any related Agency procedures.

EAD Notice has the meaning given to it in Rule 3245.

EAD Violations means Anti-Doping Rule Violations arising out of the Rule 3000 Series and violations of Rule 3229.

ECM Notice has the meaning given to it in Rule 3345.

ECM or Other Violations means Controlled Medication Rule Violations arising out of the Rule 3000 Series, violations of Rule 3329, or violations of Rule 3510.

Equibase means the official database for Thoroughbred horseracing.

Equine Constituencies means, collectively, Owners, Breeders, Trainers, Racetracks, Veterinarians, State Racing Commissions, and Jockeys who are engaged in the care, training, or racing of Covered Horses.

Equine Industry Representative means an organization regularly and significantly engaged in the equine industry, including organizations that represent the interests of, and whose membership consists of, Owners, Breeders, Trainers, Racetracks, Veterinarians, State Racing Commissions, or Jockeys.

Expanded Measurement Uncertainty means the multiplication of the coverage factor (q.v.) by the Measurement Uncertainty (q.v.).

External Quality Assessment Scheme (''EQAS'') means a program for quality

assessment of Laboratory performance, which includes the periodic distribution of urine, blood, hair, or other samples to Laboratories and probationary laboratories by the Agency, to be analyzed for the presence or absence of Prohibited Substances or their Metabolite(s), or Marker(s) of Use of Prohibited Substances or Prohibited Methods. EQAS samples may be open (*i.e.,* educational; in such cases the content may be indicated), blind or double-blind (in such cases the content is unknown to the Laboratories).

Fault means any breach of duty or any lack of care appropriate to a particular situation. Factors to be taken into consideration in assessing a Covered Person's degree of Fault include (but are not limited to) the Covered Person's experience and special considerations such as impairment, the degree of risk that should have been perceived by the Covered Person, and the level of care and investigation exercised by the Covered Person in relation to what should have been the perceived level of risk. With respect to supervision, factors to be taken into consideration are the degree to which the Covered Person conducted appropriate due diligence, educated, supervised, and monitored Covered Persons (including Veterinarians), employees, personnel, agents, and other Persons involved in any way with the care, treatment, training, or racing of his or her Covered Horses, and created and maintained systems to ensure compliance with the Protocol. In assessing the Covered Person's degree of Fault, the circumstances considered must be specific and relevant to explain the Covered Person's departure from the expected standard of behavior. Thus, for example, the fact that the Covered Person would lose the opportunity to earn large sums of money during a period of Ineligibility, or the fact that the Covered Person or Covered Horse only has a short time left in a career, or the timing of the horseracing calendar, would not be relevant factors to be considered in reducing the period of Ineligibility based on degree of Fault.

Fit(ness)-for-Purpose means suitable for the intended purpose and in conformity with the ISO/IEC 17025, ILAC–G7, the Laboratory Standards, and relevant Technical Document(s) and Technical Letter(s).

Further Analysis means additional analysis conducted by a Laboratory on an A Sample or a B Sample after it has reported an analytical result for that A Sample or that B Sample, save that it excludes (and, therefore, there is no limitation on a Laboratory's authority to conduct) repeat or confirmation analysis, and analysis with additional or different Analytical Methods.

IAP member means a member of the Internal Adjudication Panel.

Immediate Family Member means a spouse, domestic partner, mother, father, aunt, uncle, sibling, or child.

Ineligibility means the Covered Horse or Covered Person is barred for a specified period of time from participating in specified activities, as further particularized in the provisions of the Protocol relating to Ineligibility.

Initial Testing Procedure (''ITP'') means an Analytical Testing Procedure whose purpose is to identify those Samples that may contain a Prohibited Substance, Metabolite(s) of a Prohibited Substance, or Marker(s) of the Use of a Prohibited Substance or Prohibited Method or an elevated quantity of a Prohibited Substance, Metabolite(s) of a Prohibited Substance, or Marker(s) of the Use of a Prohibited Substance or Prohibited Method.

Interested Party means the Authority, the Owner of the Covered Horse, the Trainer of the Covered Horse, and the relevant State Racing Commission (provided that such State Racing Commission has entered into an agreement incorporating required confidentiality provisions).

Intermediate Precision (sw) means variation in results observed when one or more factors, such as time, equipment, or operator, are varied within a Laboratory, and may also be referred to as inter-batch or inter-run precision.

Internal Adjudication Panel has the meaning given to it in the Rule 7000 Series. The Internal Adjudication Panel shall have the same meaning as the National Stewards Panel in any other rules approved by the Commission.

Jockey means a rider or driver of a Covered Horse in Covered Horseraces.

Laboratory means a laboratory approved by the Agency, applying Test Methods and processes to provide evidentiary data for the detection or identification of Prohibited Substances, Metabolites, Markers, or Prohibited Methods, and, if applicable, quantification of a Threshold Substance in Samples of urine, blood, hair, and other biological matrices in the context of Doping Control or Medication Control activities.

Laboratory Director means a person appointed by a Laboratory to be responsible for overseeing the professional, organizational, educational, operational, and administrative responsibilities of the Laboratory's operations in accordance with the Laboratory Standards.

Laboratory Documentation Package (''LDP'') means the physical or electronic material produced by a Laboratory upon reporting of an Adverse Analytical Finding or as requested by the Agency to support an analytical result such as an Adverse Analytical Finding or an Atypical Finding.

Laboratory Expert Group (''LabEG'') means the group of laboratory experts responsible for providing advice, recommendations, and guidance to the Agency with respect to the overall management of Laboratory accreditation, disciplinary action, re-accreditation, approval processes, and monitoring activities.

Laboratory Guidelines (''LGs'') means recommendations of Laboratory best practices that may be provided by the Agency to address specific Laboratory operations or to provide technical requirements and guidance on interpretation and reporting of results for the analysis of specific Prohibited Substance(s), Metabolites, or Markers, or Prohibited Method(s), or on the application of specific Laboratory procedures.

Laboratory Internal Chain of Custody means documentation maintained within the Laboratory to record the chronological traceability of custody and actions performed on the Sample and any Aliquot of the Sample taken for Analytical Testing. Laboratory Internal Chain of Custody is generally documented by a written or electronic record of the date, location, action taken, and the person performing an action with a Sample or Aliquot.

Laboratory Standards means the Equine Standards for Laboratories and Accreditation set forth in the Rule 6000 Series.

Laboratory Supervisory Personnel means personnel appointed by a Laboratory to serve as Laboratory supervisors.

Limit of Detection (''LOD'') means the analytical parameters of assay technical performance. Lowest concentration of an Analyte in a Sample that can be routinely detected, but not necessarily identified or quantified, under the stated Test Method conditions used.

Limit of Identification (''LOI'') means analytical parameter of technical performance for chromatographic-mass spectrometric Confirmation Procedures. The LOI is estimated during method validation to evaluate the rate of false negative results at a certain concentration level. The LOI of a Test Method, at 5% false negative rate, for an Analyte (for which a Reference Material is available) shall be less than the MRPL. Since the LOI is an estimation of

the false negative rate, Laboratories may report findings below the estimated LOI as Adverse Analytical Findings or Atypical Findings, as applicable, when the Analyte is identified in the Sample according to the criteria established in a Technical Document.

Limit of Quantification (''LOQ'') means the analytical parameter of assay technical performance. Lowest concentration of an Analyte in a Sample that can be quantitatively determined with acceptable precision and accuracy (*i.e.,* acceptable Measurement Uncertainty) under the stated Test Method conditions.

Management System refers to the Laboratory's quality system to deal with control of management system documents and records and with actions to address risk, test improvements, corrective actions, and ongoing management reviews.

Managing Owner has the meaning given to it in Rule 3020(c).

Marker means a compound, group of compounds, or biological variable(s) that indicates the Use of a Prohibited Substance or Prohibited Method.

Measurement Uncertainty (''MU'') means the parameter associated with a measurement result that characterizes the dispersion of quantity values attributed to the measure and provides confidence in the validity of the measured result.

Medication Control means all steps and processes from test distribution planning through to ultimate disposition of any adjudication and review process pursuant to the Protocol and the Act involving a Controlled Medication Rule Violation and to enforcement of Consequences, including all steps and processes in between, including Testing, investigations, whereabouts program, Sample collection and handling, Laboratory analysis, Results Management, hearings and reviews, and investigations and proceedings relating to Controlled Medication Rule Violations not arising from or related to Testing or violations of Rule 3329.

Metabolite means any substance produced from a Prohibited Substance by a biotransformation process.

Minimum Reporting Level means the estimated concentration of a Prohibited Substance or its Metabolite(s) or Marker(s) in a Sample below which Laboratories will not report that Sample as an Adverse Analytical Finding.

Minimum Required Performance Level (''MRPL'') means minimum analytical criterion of Laboratory technical performance established by the Agency, including the minimum concentration at which a Laboratory is expected to consistently detect and confirm a Prohibited Substance, Metabolite of a Prohibited Substance, or Marker of a Prohibited Substance or Prohibited Method in the routine daily operation of the Laboratory.

Minor means a natural person who has not reached the age of 18 years.

National Stewards Panel means the Internal Adjudication Panel.

Negative Finding means a test result from a Laboratory that, in accordance with the Laboratory Standards and any relevant Technical Document(s) and Technical Letter(s), concludes that no Prohibited Substance(s) or its Metabolite(s) or Marker(s) or evidence of the Use of a Prohibited Method(s), included in the requested Analytical Testing menu, were found in a Sample based on the applied Initial Testing Procedure(s) or Confirmation Procedure(s).

No Fault or Negligence means the Covered Person establishing that he or she did not know or suspect, and could not reasonably have known or suspected, even with the exercise of utmost caution, that he or she had administered to the Covered Horse (or that the Covered Horse's system otherwise contained) a Banned Substance or a Controlled Medication Substance, or that he or she had Used on the Covered Horse a Banned Method or a Controlled Medication Method, or otherwise committed an Anti-Doping Rule Violation or Controlled Medication Rule Violation. For any violation of Rule 3212 or Rule 3312, the Covered Person must also establish how the Prohibited Substance entered the Covered Horse's system in order to establish No Fault or Negligence.

No Significant Fault or Negligence means the Covered Person establishing that his or her fault or negligence, when viewed in the totality of the circumstances and taking into account the criteria for No Fault or Negligence, was not significant in relationship to the Anti-Doping Rule Violation or Controlled Medication Rule Violation in question. For any violation of Rule 3212 or 3312, the Covered Person must also establish how the Prohibited Substance entered the Covered Horse's system in order to establish No Significant Fault or Negligence.

Nominated Person means a person nominated by a Responsible Person at the time of notification or through a whereabouts filing to assist, consent to, and witness Sample collection from a Covered Horse. If the Responsible Person is not present to nominate a person, or the designated Nominated Person is not present or willing to assist with Sample collection, anyone employed by the Responsible Person or Owner at the stable where the Covered Horse is located shall be the Nominated Person for that Sample collection. If no Nominated Person is promptly identified as described above, the person who has custody or control of the Covered Horse or granted the DCO, BCO, or Chaperone access to the Covered Horse shall be the Nominated Person for that Sample collection. In each case, the Nominated Person shall be 18 years or older.

Non-Threshold Substance means a Prohibited Substance for which the identification, in compliance with any applicable Technical Document(s), constitutes an Adverse Analytical Finding.

Owner means a person who holds an ownership interest in one or more Covered Horses.

Person means a natural person or an organization or other entity.

Possession means actual, physical possession, or constructive possession (which shall be found only if the Covered Person has exclusive control or intends to exercise exclusive control over the Prohibited Substance or Prohibited Method or the premises in which a Prohibited Substance or Prohibited Method exists). If the Covered Person does not have exclusive control over the Prohibited Substance or Prohibited Method or the premises in which a Prohibited Substance or Prohibited Method exists, constructive Possession shall only be found if the Covered Person knew about the presence of the Prohibited Substance or Prohibited Method and intended to exercise control over it. There shall be no Anti-Doping or Controlled Medication Rule violation based solely on Possession if, prior to receiving notification of any kind of any violation, the Covered Person has taken concrete action demonstrating that the Covered Person never intended to have possession and has renounced possession by explicitly declaring it to the Agency. Notwithstanding anything to the contrary in this definition, the act of purchasing (including by any electronic or other means) a Banned Substance or Banned Method constitutes Possession by the Covered Person who makes the purchase, whether or not the Banned Substance or Banned Method purchased is ever delivered to the Covered Person.

Post-Race Sample means a Sample collected by or on behalf of the Agency from a Covered Horse where notification of such Sample collection takes place no more than 1 hour after the end of a Covered Horserace in which a Covered Horse participates or is entered, or the

end of a Vets' List Workout in which a Covered Horse participates. All Banned Substances and all Controlled Medication Substances are prohibited from being present in a Post-Race Sample.

Post-Time means the start time of a Covered Horserace in which a Covered Horse participates or is entered, or the start time of a Vets' List Workout in which a Covered Horse participates.

Post-Work Sample means a Sample collected by or on behalf of the Agency from a Covered Horse where notification of such Sample collection takes place no more than 1 hour after the end of a Timed and Reported Workout. All Banned Substances and any Controlled Medication Substances specifically identified on the Prohibited List as prohibited during Timed and Reported Workouts are prohibited from being present in a Post-Work Sample.

Presumptive Adverse Analytical Finding (''PAAF'') means the status of a Sample test result from the Initial Testing Procedure which represents a suspicious finding, but for which a Confirmation Procedure to render a conclusive test result has not yet been performed.

Program means the anti-doping and medication control program established under section 3055(a) of the Act.

Program Effective Date means the date on which the Commission approves the proposed rule.

Prohibited List means the list identifying Prohibited Substances and Prohibited Methods set forth in the Rule 4000 Series.

Prohibited Method means any method so described on the Prohibited List.

Prohibited Substance means any substance or class of substances so described on the Prohibited List or the Technical Document–Prohibited Substances.

Protocol means the Rule 3000 Series (Equine Anti-Doping and Controlled Medication Protocol), as amended from time to time.

Provisional Hearing means an expedited abbreviated hearing to resolve a challenge to a Provisional Suspension, occurring prior to the adjudication of the violation in issue.

Provisional Suspension means the Covered Horse or Covered Person is barred temporarily from participating in any Timed and Reported Workout or Covered Horserace in accordance with Rules 3229 or 3329 (as applicable).

Public Disclosure means the dissemination or distribution of information by the Authority or the Agency to the general public.

Quality Manager means the staff member appointed by a Laboratory to perform that role in accordance with the Laboratory Standards.

Race Day means the period commencing at 12:01 a.m. on the day of a Vets' List Workout or Covered Horserace and ending (i) 1 hour after the end of such Vets' List Workout or Covered Horserace or (ii) at the end of any Sample Collection Session conducted at that Vets' List Workout or Covered Horserace when the Covered Horse is released from the Test Barn, whichever is later.

Race Organizer means any Person that arranges, organizes, and has administrative responsibility for a Covered Horserace.

Race Period means the period:

(a) commencing 48 hours prior to the Post-Time of either (i) any Vets' List Workout in which the Covered Horse participates or (ii) any Covered Horserace that the Covered Horse has been entered in, whether or not the Covered Horse actually starts; and

(b) ending (i) 1 hour after the end of such Vets' List Workout or Covered Horserace or (ii) at the end of any Sample collection process conducted at that Vets' List Workout or Covered Horserace when the Covered Horse is released from the Test Barn, whichever is later.

However, the Prohibited List may specify a Race Period that is shorter or longer in duration than the above period for certain Controlled Medication Substances or Controlled Medication Methods.

Racetrack means an organization licensed by a State Racing Commission to conduct Covered Horseraces.

Racetrack Safety Program means the program set forth in Rule 2000 Series, established pursuant to section 3056(a) of the Act.

Reference Collection (''RC'') means a collection of samples or isolates of known origin that may be used in the determination of the identity of an unknown substance. For example, a well-characterized sample obtained from a controlled administration or from in vitro studies in which the presence of the substance of interest has been established.

Reference Material (''RM'') means a Reference Substance or Reference Standard that is sufficiently characterized, homogeneous, and stable with respect to one or more specified properties and that has been established to be fit for its intended use in an Analytical Testing Procedure.

Regulatory Veterinarian means a Veterinarian who is employed, contracted, or appointed by a State Racing Commission, Racetrack, the Authority, or the Agency to monitor the health and welfare of Covered Horses, in addition to any other duties assigned to him or her by the Authority or the Agency.

Repeatability (sr) means variability of results obtained within a laboratory using the same method, over a short time, using a single operator, item of equipment, etc. It is also referred to as intra-batch/intra-run precision.

Reproducibility (sR) means variability of results obtained when different laboratories analyze Aliquots of the same Sample. Reproducibility is a property of the results obtained and represents a measurable agreement of analytical results between different laboratories.

Responsible Person has the meaning given to it in Rule 3030.

Results Management means the process encompassing the timeframe from provision of an EAD Notice or ECM Notice through the charge until the final resolution of the matter, including the end of any adjudication and review process pursuant to the Protocol and the Act.

Revocation means the permanent withdrawal of a Laboratory's Equine Analytical Laboratory accreditation by the Agency.

Risk Assessment means the assessment of risk of doping and controlled medication misuse conducted by the Agency and used to effectively conduct test distribution planning or Target Testing.

RMTC has the meaning given to it in Rule 6070(a).

Root Cause Analysis (''RCA'') means an investigation to identify one or more fundamental causes of a nonconformity based on the collection of objective evidence from an assessment of the likely factors that led to the nonconformity. The removal of a root cause factor prevents the recurrence of the nonconformity; in contrast, removing a causal factor can improve the outcome, but it does not prevent the recurrence of the problem with certainty.

Sample means any biological material collected for the purposes of Doping Control or Medication Control, including urine, blood, and hair.

Sample Collection Equipment means A and B bottles, kits, containers, collection vessels, tubes, or other apparatus used to collect, hold, or store a Sample at any time during or after a Sample Collection Session.

Sample Collection Personnel means all qualified officials authorized by the Agency to carry out or assist with duties during Doping Control or Medication Control, including, but not limited to, Blood Collection Officers, Doping

Control Officers, and Chaperones. An individual may be authorized by the Agency to carry out one or more roles during Doping Control or Medication Control.

Sample Collection Session means all of the sequential activities that directly involve the collection of a Sample from a Covered Horse from the point that initial contact is made with the Responsible Person or Nominated Person until the Covered Horse provides a Sample and is discharged from Sample collection obligations.

Screening Limit means a concentration to be used by Laboratories when screening for certain Non-Threshold Substances during the Initial Testing Procedure, below which a Laboratory will not pursue the possible presence of a Prohibited Substance. When the concentration of an Analyte subject to a Screening Limit exceeds the Screening Limit as determined by the Initial Testing Procedure, qualitative confirmatory analysis by mass spectrometry Confirmation Procedure is required to confirm the presence or absence of the Prohibited Substance. Quantification is not required. A Screening Limit is not a Limit of Detection, a Limit of Identification, or a Limit of Quantification.

Selectivity means the ability of the Analytical Testing Procedure to detect or identify (as applicable) the substance of interest in the Sample.

Specified Substance has the meaning given to it in Rule 3111(c).

Stacking Violation has the meaning given to it in Rule 3312(e).

Stakes Race means any race so designated by the Racetrack at which such race is run, including, without limitation, the races the Breeders' Cup World Championships comprises and the races designated as graded stakes by the American Graded Stakes Committee of the Thoroughbred Owners and Breeders Association.

Standard Operating Procedure means a document setting out prescribed methods or procedures to be followed when performing certain routine operations.

Standards means the Testing and Investigations Standards and the Laboratory Standards. Compliance with a Standard (as opposed to another alternative standard, practice, or procedure) shall be sufficient to conclude that the procedures addressed by the Standard were performed properly. Standards shall include any Technical Documents issued pursuant to the Standards.

State Racing Commission means an entity designated by State law or regulation that has jurisdiction over the conduct of horseracing within the applicable state.

Substantial Assistance means, for purposes of Rule 3226(a) and Rule 3326(a), a Covered Person providing the following assistance:

(1) fully disclosing in a signed written statement or recorded interview all information the Covered Person possesses in relation to violations of the Protocol; and

(2) fully cooperating with the investigation and adjudication of any case or matter related to that information, including, for example, by providing an affidavit and presenting testimony at a hearing if requested to do so by the Agency or adjudication body.

Further, the information provided must be credible and must comprise an important part of any case or proceeding which is initiated or, if no case or proceeding is initiated, must have provided a sufficient basis on which a case or proceeding could have been brought.

Tamper Evident means to have one or more indicators or barriers to entry included with or incorporated into the Sample Collection Equipment, which, if breached, missing, or otherwise compromised, can provide visible evidence that Tampering or Attempted Tampering of Sample Collection Equipment has occurred.

Tampering means intentional conduct that subverts the Doping Control or Medication Control process, but that would not otherwise be included in the definition of Prohibited Methods. Tampering includes offering or accepting a bribe to perform or fail to perform an act, preventing the collection of a Sample, affecting or making impossible the analysis of a Sample, falsifying documents submitted to the Agency (or a committee or adjudication body), procuring false testimony from witnesses, committing any other fraudulent act upon the Agency (or committee or adjudication body) to affect Results Management or the imposition of Consequences, and any other similar interference or attempted interference with any aspect of Doping Control or Medication Control. However, this definition shall not include the actions of bona fide veterinary personnel involving a Controlled Medication Substance or Controlled Medication Method used for genuine and legal therapeutic purposes or other acceptable justification.

Target Testing means selection of specific Covered Horses for Sample collection based on criteria set forth in the Testing and Investigations Standards.

Technical Document (''TD'') means a document adopted and published by the Authority from time to time containing requirements or guidance on specific anti-doping or medication control topics.

Technical Letter (''TL'') means a document published containing mandatory technical requirements provided by the Agency from time to time to address particular issues on the analysis, interpretation, and reporting of specific Prohibited Substance(s), Metabolites, Markers, or Prohibited Method(s), or on the application of specific Laboratory procedures.

Technical Note (''TN'') means technical guidance provided by the Agency to Laboratories on the performance of specific Laboratory methods or procedures.

Test Barn means the location where Sample collection is conducted on Race Day.

Test Barn Veterinarian means a Veterinarian who is employed, contracted, or appointed by a State Racing Commission, Racetrack, the Authority, or the Agency to monitor the health and welfare of Covered Horses subject to Sample collection in the Test Barn.

Testing means the parts of the Doping Control or Medication Control process involving Sample collection, Sample handling, and Sample transport to the Laboratory.

Testing and Investigations Standards means the Equine Testing and Investigations Standards set forth in the Rule 5000 Series.

Test Method has the same meaning as Analytical Testing Procedure.

Thoroughbred means a horse that is registered in The American Stud Book or in a foreign stud book approved by the Jockey Club or the International Stud Book Committee.

Threshold means the maximum permissible level of the concentration, ratio, or score for a Threshold Substance in a Sample. The Threshold is used to establish the Decision Limit for reporting an Adverse Analytical Finding or Atypical Finding for a Threshold Substance. Thresholds may only be adopted for (i) substances endogenous to the horse or (ii) substances arising from plants traditionally grazed or harvested as equine feed.

Threshold Substance means a Prohibited Substance, or Metabolite or Marker of a Prohibited Substance, for which the identification and quantitative determination, including, for example, concentration, ratio, or score, in excess of a pre-determined Decision Limit, or, when applicable, the establishment of an exogenous origin,

constitutes an Adverse Analytical Finding.

Timed and Reported Workout means an officially timed and published running of a Thoroughbred horse over a predetermined distance that is not a horserace, as reported by Equibase or any official supplier of racing information and statistics recognized by the Authority. Official timed workouts shall have the same meaning as Timed and Reported Workouts. Any official timed workout by a Thoroughbred horse in any other jurisdiction shall be deemed a Timed and Reported Workout upon the earliest to occur of the following: (i) the horse is brought to the United States for purposes of participating in any Covered Horserace; or (ii) the horse is nominated for a Covered Horserace.

Trafficking means a Covered Person selling, giving, transporting, sending, delivering, or distributing by any means a Banned Substance or Banned Method to any other Person, or Possessing a Banned Substance or Banned Method for any such purpose; provided, however, that Trafficking shall not include the actions of Veterinarians or other licensed medical personnel involving a Prohibited Substance used for genuine and legal therapeutic purposes or other acceptable justification.

Trainer means an individual engaged in the training of Covered Horses.

Training Facility means a location that is not a Racetrack licensed by a State Racing Commission that operates primarily to house Covered Horses and conduct Timed and Reported Workouts.

Use means the utilization, application, ingestion, injection, or consumption by any means whatsoever of any Prohibited Substance or Prohibited Method in relation to a Covered Horse.

Veterinarian means a licensed veterinarian who provides veterinary services to Covered Horses.

Veterinarians' List has the meaning given to it in Rule 2000 Series (Racetrack Safety Program).

Vets' List Workout means an officially timed running of a Covered Horse over a predetermined distance that is not a Covered Horserace but is overseen by a Regulatory Veterinarian or Racetrack steward.

Whereabouts Failure means a failure by the Responsible Person to do any of the following: (i) provide notice to the Agency that his or her Covered Horse has been moved from a Racetrack or Training Facility to a private facility (*i.e.,* a facility not under the jurisdiction of the Authority/Agency) before such move occurs; (ii) provide whereabouts information about his or her Covered Horse(s) upon request by the Agency; (iii) provide sufficient information about the Covered Horse's whereabouts to enable the Agency to Test the Covered Horse at any time; or (iv) update any whereabouts information provided to the Agency if it changes.

Without Prejudice Agreement means a written agreement between the Agency and a Covered Person that allows the Covered Person to provide information to the Agency in a defined time-limited setting with the understanding that, if an agreement for Substantial Assistance or a case resolution agreement is not finalized, the information provided by either party may not be used by the other party in any Results Management proceeding under this Protocol. Such an agreement shall not preclude the parties from using any information or evidence gathered from any source.

Workout means a timed running of a horse over a predetermined distance not associated with a race or its first qualifying race, if such race is made subject to the Act by election under section 3054(*l*) of the Act of the horse's breed governing organization or the applicable State Racing Commission.

3000. Equine Anti-Doping and Controlled Medication Protocol

3000. General Provisions

Rule 3010. Introduction

(a) The Horseracing Integrity and Safety Act of 2020 (''Act'') mandates and empowers the Horseracing Integrity and Safety Authority (''Authority'') to establish a uniform anti-doping and controlled medication program to improve the integrity and safety of horseracing in the United States (''Program'').

(b) This Equine Anti-Doping and Controlled Medication Protocol (''Protocol'') has been developed and issued by the Authority as part of that mandate. It contains or incorporates by reference rules, standards, and procedures to improve and protect the integrity and safety of horseracing in the United States by deterring and penalizing the improper administration or application of Prohibited Substances and Prohibited Methods to Covered Horses. The Protocol is split into five chapters:

(1) the purpose, scope, and organization of the Protocol;

(2) the Prohibited List, rules of proof, and testing and investigations;

(3) the Equine Anti-Doping Rules;

(4) the Equine Controlled Medication Rules; and

(5) other violations and general procedure/administration.

(c) The Protocol has intentionally divided the regulation of Anti-Doping Rule Violations and Controlled Medication Rule Violations into separate chapters to reflect the Authority's view that the treatment of such violations should be separate and distinct from each other. Anti-Doping Rule Violations involve Banned Substances or Banned Methods, which are substances/methods that should never be in a horse's system or used on a horse as they serve no legitimate treatment purpose. Conversely, Controlled Medication Rule Violations involve Controlled Medication Substances or Controlled Medication Methods, which are substances/methods that have been determined to have appropriate and therapeutic purposes, and so may be used outside the Race Period, except as otherwise provided in the Prohibited List. For the avoidance of doubt, the Protocol does not regulate the use of drugs or medications by human participants in Covered Horseraces.

(d) The Protocol reflects and implements the following principles set out in section 3055(b) of the Act that:

(1) Covered Horses should compete only when they are free from the influence of medications, other foreign substances, and treatment methods that affect their performance;

(2) Covered Horses that are injured or unsound should not train or participate in Covered Horseraces, and that medications, other foreign substances, and treatment methods that mask or deaden pain in order to allow injured or unsound horses to train or race should be prohibited;

(3) rules, standards, procedures, and protocols regulating medication and treatment methods for Covered Horses and Covered Horseraces should be uniform and uniformly administered throughout the United States;

(4) to the extent consistent with the Act, consideration should be given to international anti-doping and medication control standards of the International Federation of Horseracing Authorities and the Principles of Veterinary Medical Ethics of the American Veterinary Medical Association;

(5) the administration of medications and treatment methods to Covered Horses should be based upon a veterinary examination and diagnosis that identifies an issue requiring treatment for which the medication or method represents an appropriate component of treatment;

(6) the amount of therapeutic medication that a Covered Horse receives should be the minimum necessary to address the diagnosed

health concerns identified during the veterinary examination and diagnostic process; and

(7) the welfare of Covered Horses, the integrity of the sport of horseracing, and the confidence of its stakeholders (including the betting public) require full disclosure to regulatory authorities regarding the administration of medications and treatments to Covered Horses.

(e) The Protocol will be implemented and enforced on behalf of the Authority by:

(1) an anti-doping and controlled medication enforcement agency known as the Horseracing Integrity and Welfare Unit (''Agency''); and

(2) where agreed in accordance with 3060 of the Act, by State Racing Commissions acting under the delegated authority of the Authority or the Agency (and references to the Authority or the Agency in the Protocol will be deemed to encompass such commissions as the context requires, subject to and consistent with the scope of their delegated authority).

(f) In accordance with section 3054(b) of the Act, the rules of the Authority promulgated in accordance with the Act shall preempt any provision of State law or regulation with respect to matters within the jurisdiction of the Authority under the Act. Among other things, the Protocol:

(1) identifies the conduct that will constitute an Anti-Doping Rule Violation (Rules 3211 to 3216), a Controlled Medication Rule Violation (Rules 3311 to 3315), or a related violation (Rules 3229, 3329, and 3510);

(2) establishes evidentiary and other rules for proving violations of the Protocol (Rules 3121 to 3122);

(3) provides for the creation, maintenance, and updating of a Prohibited List and related Technical Document that identify Prohibited Substances and Prohibited Methods (Rules 3111 to 3113);

(4) empowers the Agency to perform and manage test distribution planning and Testing of Covered Horses both in and out of competition, in accordance with the Testing and Investigations Standards (Rule 3133);

(5) empowers the Agency to gather intelligence and investigate potential violations of the Protocol, in accordance with the Testing and Investigations Standards, which incorporate uniform rules and procedures in accordance with section 3054(c) of the Act (Rule 3133);

(6) empowers the Agency to accredit testing laboratories in accordance with the Laboratory Standards and to monitor, test, and audit approved Laboratories to ensure continuing compliance with the Laboratory Standards; and provides for all samples collected pursuant to the Protocol to be analyzed at approved Laboratories in accordance with the Laboratory Standards or by other laboratories, such as international laboratories accredited by the International Federation of Horseracing Authorities, in accordance with Rule 3136(d) (Rule 3136);

(7) sets out uniform rules and procedures for the Agency's management of the results of testing and investigations, and for its prosecution of any charges that Covered Persons have violated the Protocol, including incorporating the Arbitration Procedures to ensure the fair adjudication of those charges;

(8) sets out the sanctions that may be applied in case of violations of the Protocol, including, but not limited to, Disqualification of results, forfeiture of prizes and purses, fines, payment of costs, periods of Ineligibility for Covered Horses or Covered Persons (including additional periods of Ineligibility for repeat offenders), and Public Disclosure (sections 3220 and 3320); and requires the Authority, Racetracks, Race Organizers, Training Facilities, all Covered Persons, and all other relevant Persons to recognize, respect, enforce, and give full force and effect to final decisions issued under the Protocol within their respective spheres of authority (Rule 3710);

(9) regulates the public reporting and disclosure of cases, and permits and facilitates statistical reporting to the Authority and to the U.S. Congress, the Commission, State Racing Commissions, and other Federal or State governmental bodies or agencies having jurisdiction over the sport of horseracing in the United States (section 3600); and

(10) empowers the Agency to undertake and commission education and research activities designed to advance the integrity and safety of horseracing in the United States (Rule 3810).

(g) The Protocol comes into force on the Program Effective Date and will apply in full as from that date. In accordance with section 3054(k)(1) of the Act, the Protocol only has prospective effect, *i.e.,* it does not apply to, and does not give the Authority or Agency authority to investigate, prosecute, adjudicate, or penalize conduct that occurred before the Program Effective Date (Rule 3080).

(h) The Protocol incorporates by reference the supporting rules and documents approved by the Commission and issued by the Authority, including Rule 1000 Series (General Provisions), Rule 2000 Series (Racetrack Safety Program), Rule 4000 Series (Prohibited List), Rule 5000 Series (Testing and Investigations Standards), Rule 6000 Series (Laboratory Standards), Rule 7000 Series (Arbitration Procedures), Rule 8000 Series (Enforcement Rule), Rule 8500 Series (Methodology for Determining Assessments), and Rule 9000 Series (Registration of Covered Persons and Covered Horses).

(i) In accordance with section 3055(c)(4) of the Act, the Agency may develop further rules, protocols, policies, and guidelines for approval by the Authority to support the implementation of the Protocol. These materials will be developed in consultation with the Anti-Doping and Medication Control Standing Committee (ADMC) of the Authority and will be consistent with international best practices.

(j) Nothing in the Protocol or in any of its associated rules, protocols, policies, and guidelines:

(1) is intended to constrain or limit in any way the powers of the Authority or the Agency under the Act; or

(2) shall be interpreted or applied in a manner that has the effect of constraining or limiting those powers in any way.

(k) Unless specified otherwise, words and terms in the Protocol that are capitalized are defined terms that have the meaning given to them in Rule 1020.

(l) The rules of interpretation included at Rule 1010 and Rule 3070 shall be used as an aid to interpretation of the Protocol.

Rule 3020. Application

(a) The Protocol applies to and is binding on:

(1) any horserace involving Covered Horses that has a substantial relation to interstate commerce, including any Thoroughbred horserace that is the subject of interstate off-track or advance deposit wagers (each, a Covered Horserace);

(2) any Thoroughbred horse, or any other horse made subject to the Act by election of the applicable State Racing Commission or the breed governing organization for such horse under section 3054(*l*), during the period: (A) beginning on the date of the horse's first Timed and Reported Workout at a racetrack that participates in Covered Horseraces or at a Training Facility; and (B) ending on the date on which the horse is deemed retired pursuant to Rule 3050(b) (each, a Covered Horse); and

(3) the following persons (each, a Covered Person): all Trainers, Owners,

Breeders, Jockeys, Racetracks, Veterinarians, Persons licensed by a State Racing Commission, and the agents, assigns, and employees of such Persons; any other Persons required to be registered with the Authority; and any other horse support personnel who are engaged in the care, treatment, training, or racing of Covered Horses.

(b) Pursuant to section 3054 of the Act, Covered Persons must register with the Authority. However, they are bound by the Protocol by undertaking the activity (or activities) that make(s) them a Covered Person, whether or not they register with the Authority.

(c) Owners. Covered Horses may be owned by a sole individual, multiple individuals, or one or more entities. As a consequence of the various ownership structures and property interests of Covered Horses, it is necessary to identify which Person shall be responsible as the Owner for purposes of registration, communication, personal liability, and other requirements under the Protocol and related rules. Accordingly:

(1) For purposes of mandatory registration with the Authority, any Covered Person who owns a 5% or greater ownership or property interest in a Covered Horse shall register with the Authority as an Owner.

(2) The following person shall be responsible as the Owner for any communication, notification, and reporting requirements under the Protocol:

(i) if the Covered Horse is owned by one individual, that individual; or

(ii) if the Covered Horse is owned by more than one individual or by a partnership, corporation, limited liability company, syndicate, or other association or entity, the individual designated in the Authority's database as the representative for the other owners of the Covered Horse authorized to receive communications or notifications and fulfill any reporting requirements on their behalf in respect of the Covered Horse (Designated Owner).

(3) If Rule 3030 makes the Owner the Responsible Person for a Covered Horse, that shall mean that the following person is personally liable for violations involving that Covered Horse:

(i) if the Covered Horse is owned by one individual, that individual; or

(ii) if the Covered Horse is owned by more than one individual or by a partnership, corporation, limited liability company, syndicate, or other association or entity, the individual who manages the Covered Horse as a matter of fact (Managing Owner). If an individual owns more than a 50% stake in a Covered Horse or where the entity that owns the Covered Horse has designated an individual with an ownership interest in the Covered Horse as the individual who will be personally liable under the Protocol as the Owner of the Covered Horse, that individual will be presumed to be the Managing Owner. If an individual with an ownership or property interest in the Covered Horse who is not the Managing Owner makes a relevant decision about the Covered Horse that leads to a violation of the Protocol, that person shall be jointly and severally liable with the Managing Owner for such decision as an Owner of the Covered Horse.

(4) Only the following persons may attend hearings under the Protocol as the Owner of the Covered Horse, unless otherwise agreed by the hearing panel:

(i) if the Covered Horse is owned by one individual, that individual; or

(ii) if the Covered Horse is owned by more than one individual or by a partnership, corporation, limited liability company, syndicate, or other association or entity, the Designated Owner or Managing Owner.

(5) Unless the context requires otherwise, the individual owner or Managing Owner of the Covered Horse (as applicable) shall be responsible for discharging any other requirements imposed on an Owner under the Protocol or related rules.

Rule 3030. Responsible Persons

(a) ''Responsible Person'' means the Trainer of the Covered Horse. If the Covered Horse does not have a Trainer, the Responsible Person shall be the Owner of the Covered Horse. The Responsible Person shall be personally liable for his or her Covered Horse(s) as set out under the Protocol. Other Covered Persons who make a relevant decision about the Covered Horse may also be liable depending on the facts and circumstances.

(b) If a Covered Horse is claimed in a Claiming Race, the person designated as the Responsible Person prior to that Claiming Race shall be liable for any violation resulting from a Sample collected on Race Day. The person who claims the Covered Horse in the Claiming Race shall not be liable for such violation, unless he or she was complicit in the violation.

(c) The Responsible Person shall register their designation as the Responsible Person for a Covered Horse with the Authority and shall keep such designation and registration up-to-date. Any transfer of the Responsible Person designation to another Covered Person shall be done with the Authority in accordance with its procedures prior to the effective date of the transfer, except that if a Covered Horse is claimed in a Claiming Race, the transfer shall be done on the day of the Claiming Race.

(d) The Responsible Person for a Covered Horse shall be the sole representative for the interests of that Covered Horse in any matter arising under the Protocol. The Owner (if not the Responsible Person) may attend any hearing concerning a violation of the Protocol involving his or her Covered Horse(s) in accordance with the Arbitration Procedures.

Rule 3040. Core Responsibilities of Covered Persons

(a) Responsibilities of All Covered Persons

It is the personal responsibility of each Covered Person:

(1) to be knowledgeable of and to comply with the Protocol and related rules at all times. All Covered Persons shall be bound by the Protocol and related rules, and any revisions thereto, from the date they go into effect, without further formality. It is the responsibility of all Covered Persons to familiarize themselves with the most up-to-date version of the Protocol and related rules and all revisions thereto;

(2) to cooperate promptly and completely with the Authority and the Agency in the exercise of their respective powers under the Act and the Protocol and related rules, including:

(i) in relation to the Testing program and in relation to the investigation of potential violations of the Protocol;

(ii) by providing complete and accurate information to the Authority and the Agency in all interactions and filings; and

(iii) on request by the Agency:

(A) making available for inspection any facility, office, stall, or equipment or other relevant location that is used in the care, treatment, training, or racing of Covered Horses, or any feed, medicine, or other item given to Covered Horses;

(B) submitting to under-oath transcribed interviews about his or her dealings with or in relation to Covered Horses;

(C) providing immediate and unfettered access to any and all data, documents, and records used in the care, treatment, training or racing of any Covered Horse (including, but not limited to, data, documents and records existing in electronic form, *e.g.,* on computers, mobile phones, or other devices); and

(D) permitting the Agency to review or make and take away copies of any such data, documents, or records for analysis, investigation, and potential

use as evidence of a violation of the Protocol by a Covered Person;

Failure to cooperate promptly and completely with the Agency may constitute a violation pursuant to Rule 3510(b); and

(3) not to engage in offensive conduct towards any Sample Collection Personnel or any representative of the Agency or the Authority (including engaging in improper, insulting, or obstructive conduct, or recording any Sample Collection Session contrary to Rule 5410). Failure to comply may constitute a violation pursuant to Rule 3510(a) or Tampering or Attempted Tampering, depending on the circumstances of the case.

(b) Additional Responsibilities of Responsible Persons

In addition to the duties under Rule 3040(a), it is the personal responsibility of each Responsible Person:

(1) to ensure that Covered Horses for which he or she is the Responsible Person are made available for Sample collection at any time and any place where they are located (*e.g.,* Racetrack, Training Facility, private facility) upon request by the Agency (or its delegate). In particular, without limiting the generality of the foregoing:

(i) The Responsible Person shall ensure that the Covered Horse is produced for Sample collection immediately upon notification by a duly authorized person in accordance with the Agency's procedures if the Covered Horse is present at the location where notification is attempted. If the Covered Horse is present at the location where notification is attempted, failure to produce a Covered Horse immediately upon valid notification shall constitute an Anti-Doping Rule Violation under Rule 3215.

(ii) If the Covered Horse is not present at the location where notification is attempted (including due to a Whereabouts Failure), the Responsible Person shall ensure that the Covered Horse is produced for Sample collection within 6 hours of notification by a duly authorized Person in accordance with the Agency's procedures, except that the Agency may extend the 6-hour period if it determines that extenuating circumstances justify doing so. If the Covered Horse is not present at the location where notification is attempted or if a Covered Horse cannot be located by the Agency, failure to produce a Covered Horse for Sample collection within 6 hours (or any extended period agreed by the Agency) of valid notification period shall constitute an Anti-Doping Rule Violation under Rule 3215.

(2) to either be present during a Sample collection involving his or her Covered Horse and comply with all Sample collection procedure requirements, or (if not present) to ensure that a Nominated Person who is 18 years or older is present to represent him or her and complies with all Sample collection procedure requirements;

(3) to ensure that treatments and medications administered to his or her Covered Horses:

(i) are administered only on the advice of a Veterinarian or (if a prescription is not required) following sufficient due diligence regarding the treatment or medication;

(ii) are not administered in a manner detrimental or contrary to horse welfare;

(iii) are the minimum necessary to address the diagnosed health concerns identified during the veterinary examination and diagnostic process;

(iv) do not contain a Banned Substance or involve a Banned Method; and

(v) do not otherwise violate the Protocol;

(4) to inform all Covered Persons (including Veterinarians), employees, personnel, agents, and other Persons involved in any way with the care, treatment, training, or racing of his or her Covered Horses of their respective obligations under the Protocol (including, in particular, those specified in Rule 3040(a));

(5) to adequately supervise all Covered Persons (including Veterinarians), employees, personnel, agents, and other Persons involved in any way with the care, treatment, training, or racing of his or her Covered Horses, including by (without limitation):

(i) conducting appropriate due diligence in the hiring process before engaging their services;

(ii) clearly communicating to such Persons that compliance with the Protocol is a condition of employment or continuing engagement in the care, treatment, training, or racing of his or her Covered Horses;

(iii) creating and maintaining systems to ensure that those Persons comply with the Protocol; and

(iv) adequately monitoring and overseeing the services provided by those Persons in relation to the care, treatment, training, or racing of his or her Covered Horses;

(6) to bear strict liability for any violations of the Protocol by such Covered Persons (including Veterinarians), employees, personnel, agents, and other Persons involved in the care, treatment, training, or racing of his or her Covered Horses;

(7) to file and update as necessary with the Authority information identifying what Covered Horses he or she is the Responsible Person for;

(8) to maintain accurate, complete, and up-to-date treatment records (including, without limitation, records of medical, therapeutic, and surgical treatments and procedures, including diagnostics) of his or her Covered Horses in an electronic or other form specified by the Agency, and to provide the Agency with access to those records upon request and without delay so that it may inspect and make and retain copies of them for purposes of monitoring and ensuring compliance with the requirements of the Protocol. The records must include the details required under Rule 2251(b). The Responsible Person must retain copies of such treatment records for a period of no less than 3 years, although the Responsible Person is advised to retain them for the duration of the limitation periods under Rule 3090;

(9) at the time of registering a horse with the Authority and prior to such horse competing in any Timed and Reported Workout or Covered Horserace, the Responsible Person shall declare in writing to the Agency all administrations of Banned Substances and Banned Methods to the horse since the Responsible Person first owned the horse (or, if not the Owner, since the Owner at the time of registration first owned the horse) or since the Program Effective date, whichever is earlier. On request by the Agency, the Responsible Person shall provide any related treatment records for the horse during that period. If a Banned Substance or Banned Method has been administered in that period, the Agency may impose a stand down period for the horse of up to the period of Ineligibility that would be applicable for the relevant Banned Substance or Banned Method and require that (at the Responsible Person's cost) the Covered Horse provide one or more negative Samples before subsequently being eligible to participate in a Timed and Reported Workout or a Covered Horserace. Failure by a Responsible Person to comply with this Rule 3040(b)(9) may constitute a violation of Rule 3510(b);

(10) if any Covered Horse is moved from a Racetrack or Training Facility to a private facility (*i.e.,* a facility not under the jurisdiction of the Authority or the Agency), the Responsible Person shall provide sufficient information about the Covered Horse's whereabouts so that the Agency remains able to collect Samples from the Covered Horse

at any time. The Responsible Person shall also provide any further information about the whereabouts of a Covered Horse that is specifically requested by the Agency. Failure to do so may constitute a violation of Rule 3510(d);

(11) to notify the Authority in writing within 7 days of becoming aware that any of his or her Covered Horses:

(i) is pregnant;

(ii) was pregnant but has foaled or is no longer pregnant;

(iii) has been castrated or hemicastrated (including chemical castration or immunocastration); or

(iv) has suffered a fatal condition.

In each case, the Responsible Person shall state the name of the Covered Horse, the date of the event triggering the notice, and (for paragraph (iv) above) a summary explanation regarding the cause of the fatal condition.

(c) Additional Responsibilities of Owners

In addition to the duties under Rule 3040(a):

(1) each person with a 5% percent or greater ownership or property interest in a Covered Horse shall register with the Authority as an Owner of the Covered Horse, and ensure that any transfer of ownership is registered with the Authority in accordance with its procedures; and

(2) if a Covered Horse is owned by multiple Owners, they shall ensure that the Agency is notified in writing of one Designated Owner authorized to receive communications and notifications and fulfil any reporting requirements on their behalf.

(d) Additional Responsibilities of Attending Veterinarians

In addition to the duties under Rule 3040(a), and the further duties and requirements imposed under the Rule 2000 Series (Racetrack Safety Program), it is the personal responsibility of each Attending Veterinarian to act in strict compliance with the Protocol and keep updated treatment records (including, without limitation, records of medical, therapeutic, and surgical treatments and procedures, including diagnostics) in an electronic database designated by the Agency or in any other form designated by the Agency and provide access to the Agency upon request and without delay to or copies of such treatment records. The records must include the details required under Rule 2251(b) and must be submitted in an electronic format designated by the Authority within the deadline specified in that same provision. Attending Veterinarians must retain copies of such treatment records for a period of no less than 3 years, or for the retention period required by the relevant state veterinary practice act, whichever is longer.

Rule 3050. Retirement and Equine Fatalities

(a) Covered Persons.

(1) Each Responsible Person who wishes to no longer be bound by the Protocol shall give written notice to the Authority of his or her retirement from the position that made him or her a Responsible Person. In each case, the Responsible Person shall be deemed to have retired (and to be no longer subject to the Protocol) on the later of (i) the date given in the written notice of retirement and (ii) the date the notice is received.

(2) Any other Covered Person will continue to be bound by and required to comply with the Protocol and related rules unless and until he or she unregisters with the Authority.

(3) If a Covered Person ceases to be subject to the Protocol while the Agency is conducting a Results Management process in respect of that person, the Agency retains jurisdiction to complete its Results Management process. If a Covered Person retires or ceases to be subject to the Protocol before any Results Management process has begun, and the Agency had jurisdiction over the Covered Person at the time the Anti-Doping Rule Violation or Controlled Medication Rule Violation was committed, the Agency retains jurisdiction to conduct Results Management in respect of that violation.

(4) If a Covered Person retires while subject to a period of Ineligibility, he or she must give written notice of such retirement to the Authority. The Covered Person may not return to the sport (*i.e.,* carry out any of the activities prohibited during the period of Ineligibility pursuant to Rules 3229 and 3329) unless the Covered Person has given 4 months' prior written notice (or notice equivalent to the period of Ineligibility remaining as of the date the Covered Person retired, if that period was longer than 4 months) to the Authority of his or her intent to return to the sport.

(5) The Agency may forward notifications of retirement of Covered Persons to Interested Parties or other Persons with a need to know.

(b) Covered Horses.

(1) If an Owner wishes to retire a Covered Horse such that it is no longer made available for Testing, the Owner must provide written notice of such retirement to the Agency, in accordance with its procedures.

(2) A Covered Horse that has been retired in accordance with the previous clause may not participate in a Timed and Reported Workout or be entered in a Covered Horserace until the Covered Horse has been made available for Testing at least 4 months prior to notice being given to the Agency (in accordance with its procedures) of the intention to unretire the Covered Horse.

(3) If a Covered Horse is retired from horseracing or suffers a fatal condition while the Agency is conducting a Results Management process in respect of it, the Agency retains jurisdiction to complete its Results Management process. If a Covered Horse is retired or suffers a fatal condition before any Results Management process has begun, and the Agency had jurisdiction over the Covered Horse at the time the Anti-Doping Rule Violation or Controlled Medication Rule Violation was committed, the Agency retains jurisdiction to conduct Results Management in respect of that violation. If a Covered Horse suffers a fatal condition, the Agency retains Testing authority over that horse in accordance with Rule 3132(d).

(4) If a Covered Horse is retired from horseracing while subject to a period of Ineligibility, the Owner must notify the Agency in writing of such retirement. If the Owner wishes that horse to return to participation in Covered Horseraces or Timed and Reported Workouts, the Owner must first provide the Agency with written notice and make the Covered Horse available for Testing for at least 4 months prior to such participation or for the remainder of the Covered Horse's period of Ineligibility, whichever is longer.

(5) In order to manage the number of Covered Horses registered with the Authority, the Agency may retire a Covered Horse based on inactivity (*i.e.,* where the Covered Horse does not participate in a Timed and Reported Workout or Covered Horserace for 18 months or more, excluding periods of inactivity due to a Provisional Suspension or period of Ineligibility) by sending written notice thereof to the Authority and the Owner in accordance with the Agency's procedures. If the Owner disputes that retirement, while the dispute is pending the Covered Horse may not participate in any Timed and Reported Workout or Covered Horserace but must be made available for Testing. Upon resolution of the dispute, the Authority will notify the Agency whether the horse is retired and, therefore, no longer subject to Testing. If the Owner wishes to return the Covered Horse to participation in Timed and Reported Workouts or Covered

Horseraces, the Owner must first provide the Agency with written notice and make the Covered Horse available for Testing for at least 4 months prior to such participation.

(6) The Agency may reduce the 4-month notice period in Rule 3050(b) to 2 months where the Owner of the Covered Horse submits an application establishing good cause to do so, and where the Agency approves such application based on a review conducted in accordance with the objectives of the Protocol.

(7) The Agency may forward notifications of retirement of Covered Horses to Interested Parties or other Persons with a need to know.

Rule 3060. Claiming Races and Voidable Claims

(a) Subject to Rule 3132(b), a claimed horse may be subject to Sample collection at a Claiming Race if requested (and paid for) by the claimant as part of the claiming procedure on the day of the Claim. If a Sample collected from the claimed horse results in an Anti-Doping Rule Violation or Controlled Medication Rule Violation, the Claim may be voided at the option of the claimant, and the claimant shall be entitled to the return from the seller of all sums paid for the claimed horse and of all reasonable expenses incurred after the date of the Claim. While awaiting test results, a claimant shall: (i) exercise due care in maintaining and boarding a claimed horse; and (ii) not materially alter a claimed horse.

(b) Any voided claim shall be recorded in Equibase.

Rule 3070. Amendment and Interpretation of the Protocol

(a) The Authority may amend the Protocol from time to time, as necessary to ensure that it remains fit for purpose, in accordance with section 3057(e) of the Act. Unless provided otherwise, any amendments will come into force on the date specified or (if no date is specified) on the date the amendment is approved by the Commission.

(b) Subject to Rule 3070(d), the Protocol shall be interpreted as an independent and autonomous text and not by reference to existing law or statutes.

(c) The Protocol has been adopted pursuant to the Act and shall be interpreted, where applicable, in a manner that is consistent with applicable provisions of the Act and the other rules in Rule 1000–9000 Series. In the event of any conflict between the Act and the Protocol, the Act shall prevail. In the event of any conflict between the Protocol and any other rules in Rule 1000–9000 Series, the Protocol shall prevail.

(d) The World Anti-Doping Code and related International Standards, procedures, documents, and practices (WADA Code Program), the comments annotating provisions of the WADA Code Program, and any case law interpreting or applying any provisions, comments, or other aspects of the WADA Code Program, may be considered when adjudicating cases relating to the Protocol, where appropriate.

Rule 3080. Transitional Provisions

(a) The Protocol shall not apply retroactively to matters pending before the Program Effective Date.

(b) A presence violation under Rule 3212 or Rule 3312 that occurs after the Program Effective Date as a result of Use or Administration prior to the Program Effective Date shall not constitute a violation of the Protocol.

(c) The relevant State Racing Commission retains authority (including results management) in relation to any anti-doping or controlled medication matters taking place prior to the Program Effective Date.

(d) Changes to substances or methods covered by the Prohibited List or related Technical Document—Prohibited Substances shall not, unless they specifically provide otherwise, be applied retroactively. However, a Responsible Person or other Covered Person who is serving a period of Ineligibility on account of a Prohibited Substance or Prohibited Method that is later subject to a change in status (either because it is no longer prohibited or subject to lesser sanctions) may apply to the Agency for consideration of a reduction in the period of Ineligibility in light of that change in status. The Responsible Person may also apply to the Agency for consideration of a reduction in the period of Ineligibility applicable to his or her Covered Horse(s).

Rule 3090. Statute of Limitations

(a) No charge may be brought against a Covered Person or in relation to a Covered Horse in respect of an Anti-Doping Rule Violation unless the Covered Person or Responsible Person for the Covered Horse has been given notice, or notification has been reasonably attempted, within 10 years of the date the Anti-Doping Rule Violation is asserted to have occurred. Any violation of Rule 3229 is also subject to a 10-year limitation period.

(b) No charge may be brought against a Covered Person or in relation to a Covered Horse in respect of a Controlled Medication Rule Violation unless the Covered Person or Responsible Person for the Covered Horse has been given notice, or notification has been reasonably attempted, within 2 years of the date the Controlled Medication Rule Violation is asserted to have occurred. Any violation of Rule 3329 is also subject to a 2-year limitation period.

(c) Any violation of Rule 3510 is subject to a 4-year limitation period.

3110. The Prohibited List

Rule 3111. Prohibited Substances and Prohibited Methods

(a) The Prohibited List identifies Prohibited Substances and Prohibited Methods that are:

(1) prohibited at all times (Banned Substances and Banned Methods) on the basis of the Agency's determination that medical, veterinary, or other scientific evidence or experience supports their actual or potential (i) ability to enhance the performance of Covered Horses, (ii) masking properties, or (iii) detrimental impact on horse welfare; or

(2) prohibited for Use or Administration in relation to a Covered Horse during the Race Period and prohibited to be present in a Post-Race Sample or Post-Work Sample, except as otherwise specified in the Prohibited List (Controlled Medication Substances and Controlled Medication Methods).

(b) Prohibited Substances and Prohibited Methods may be included in the Prohibited List by general category (*e.g.,* anabolic steroids) or by specific reference to a particular substance or method.

(c) The Prohibited List is supplemented by the ''Technical Document—Prohibited Substances,'' which provides guidance on the Prohibited Substances that fall into the general categories listed in the Prohibited List and on Screening Limits, Thresholds, or Detection Times for those Prohibited Substances (as applicable), and also designates certain Prohibited Substances as Specified Substances, which are those that pose a higher risk of being the result of contamination and, therefore, are subject to more flexible sanctions.

(d) Certain Prohibited Substances may first be reported as Atypical Findings requiring further investigation before being declared as Adverse Analytical Findings, in accordance with the Atypical Findings Policy set out at Appendix 1 to the Protocol.

Rule 3112. Review and Publication of the Prohibited List and Related Technical Documents

The Agency will publish the Prohibited List on its website at least

annually, following an opportunity for stakeholder comment. The Agency will review and consider such stakeholder comment and will provide recommended revisions to the Authority. Each new version of the Prohibited List will also be sent to the State Racing Commissions.

The Authority (on recommendation of the ADMC, in consultation with the Agency) may revise the Prohibited List from time to time, subject to approval by the Commission. Revisions to the Prohibited List will go into effect on the date specified in the revised Prohibited List (which will not be any earlier than 90 days following its publication). The Agency will also publish any Technical Documents supplementing the Prohibited List (including the Technical Document—Prohibited Substances) on its website at least annually, following an opportunity for public comment. Any revisions to such Technical Documents will go into effect on the date specified in the revised Technical Document.

All Covered Persons shall be bound by the Prohibited List and related Technical Documents (including the Technical Document—Prohibited Substances), and any revisions thereto, from the date they go into effect, without further formality. It is the responsibility of all Covered Persons to familiarize themselves with the most up-to-date version of the Prohibited List and related Technical Documents (including the Technical Document—Prohibited Substances) and all revisions thereto.

Rule 3113. Validity of the Prohibited List and Related Technical Documents

The following decisions are final and shall not be subject to any challenge by any Covered Person or other Person on any basis, including any challenge based on an argument that the substance or method is not a masking agent or does not have the potential to enhance the performance of Covered Horses or have a detrimental impact on horse welfare:

(a) the Authority's determination of the Prohibited Substances and Prohibited Methods included on the Prohibited List or Technical Document—Prohibited Substances;

(b) the approval of the Prohibited List or Technical Document—Prohibited Substances by the Commission or the Authority;

(c) the classification of substances and methods into categories or classes on the Prohibited List or Technical Document—Prohibited Substances;

(d) the classification of a substance or method as a Banned Substance or Banned Method as opposed to a Controlled Medication Substance or Controlled Medication Method;

(e) the periods during which Prohibited Substances or Prohibited Methods are prohibited; and

(f) the classification of Prohibited Substances as either Specified Substances or non-Specified Substances.

Rule 3114. Monitoring Program

The Agency may approve a monitoring program regarding substances that are not on the Prohibited List or Technical Document—Prohibited Substances, if the Agency wishes to research or monitor such substances, including to identify potential patterns of misuse in horseracing. Laboratories will report the instances of reported Use or detected presence of monitored substances to the Agency, but the results of any such analyses shall not constitute an Anti-Doping Rule Violation or Controlled Medication Rule Violation. Nothing in this Rule 3114 or elsewhere in the Protocol prevents a Laboratory from sharing information with the Agency for any anti-doping or controlled medication purpose or other purpose authorized by the Act. The list of substances in the monitoring program will be reviewed annually by the Agency.

3120. Proof of Violations

Rule 3121. Burden and Standard of Proof

(a) The Agency shall have the burden of establishing that a violation of the Protocol has occurred to the comfortable satisfaction of the hearing panel, bearing in mind the seriousness of the allegation that is made. This standard of proof in all cases is greater than a mere balance of probability (*i.e.,* a preponderance of the evidence) but less than clear and convincing evidence or proof beyond a reasonable doubt.

(b) Where the Protocol places the burden of proof on a Covered Person to rebut a presumption or to establish specified facts or circumstances, the standard of proof shall be by a balance of probability (*i.e.,* a preponderance of the evidence), except as provided in Rules 3122(c) and 3122(d).

Rule 3122. Methods of Establishing Facts and Presumptions

Facts related to violations may be established by any reliable means, including admissions. The following rules of proof shall apply:

(a) Analytical methods, Minimum Reporting Levels, Thresholds, Screening Limits, Decision Limits, and any other Laboratory reporting requirements approved by the Commission are presumed to be scientifically valid.

(b) Compliance with the Standards (as opposed to an alternative standard, practice, or procedure) will be sufficient to conclude that the procedures addressed by those Standards were performed properly.

(c) Laboratories are presumed to have conducted Sample analysis and custodial procedures in accordance with the Laboratory Standards. A Covered Person who is alleged to have committed a violation may rebut this presumption by establishing that a departure from the Laboratory Standards occurred that could reasonably have caused the Adverse Analytical Finding or other factual basis for any other violation asserted. Where the presumption is rebutted, the Agency shall have the burden of establishing that such departure did not cause the Adverse Analytical Finding or other factual basis for the violation asserted.

(d) Departures from any other Standards or any provisions of the Protocol shall not invalidate analytical results or other evidence of a violation, and shall not constitute a defense to a charge of such violation; provided, however, that if the Covered Person establishes that a departure from any other Standards or any provisions of the Protocol could reasonably have caused the Adverse Analytical Finding or other factual basis for the violation charged, the Agency shall have the burden to establish that such departure did not cause the Adverse Analytical Finding or other factual basis for the violation.

(e) Non-appealable and final factual findings of a court, arbitral tribunal, professional disciplinary body, or administrative body of competent jurisdiction shall be irrebuttable evidence against the Covered Person to whom the decision pertained of those facts, unless the Covered Person establishes that the decision did not respect due process.

(f) A hearing panel may draw an inference adverse to a Covered Person who is asserted to have committed a violation of the Protocol based on the Covered Person's refusal to cooperate with the Agency, including any refusal to respond to questions put to him or her as part of an investigation or to appear at the hearing (either in person or remotely) and to answer questions put by the Agency or the hearing panel.

3130. Testing and Investigations

Rule 3131. Purpose of Testing and Investigations

Testing and investigations may be undertaken to assist in the effective policing and enforcement of the Protocol, including to obtain evidence regarding potential violations of the Protocol.

Rule 3132. Authority To Test

(a) Only the Agency (and those authorized by the Agency) may initiate and direct Testing on Covered Horses. The Agency has authority to conduct Testing both in and out of competition.

(b) No other entity (including State Racing Commissions, Racetracks, Race Organizers, and Training Facilities) may initiate or direct any Testing on Covered Horses. However, a State Racing Commission, Racetrack, Race Organizer, or other third party may request that the Agency initiate and direct enhanced or additional Testing (*e.g.,* in relation to a particular Covered Horserace). The Agency may accept or decline such request at its absolute discretion. Where the Agency accepts the request, the costs of Sample collection and analysis shall be borne by the entity requesting the additional or enhanced Testing. The Agency may conduct the Testing itself or delegate Testing (or aspects thereof) to the relevant State Racing Commission, subject to the applicable State Racing Commission electing to enter into an agreement with the Agency.

(c) Covered Horses may be subject to Testing at any time and any place where they are located by or on behalf of the Agency.

(d) A Covered Horse that is subject to a Provisional Suspension or period of Ineligibility, or that sustains a fatal condition, remains subject to Testing.

(e) In accordance with the Racetrack Safety Program, a Covered Horse may be required to submit to Sample collection (at the Owner's cost) following a Vets' List Workout in order to be released from the Veterinarians' List. Any Sample collected following a Vets' List Workout constitutes a Post-Race Sample, and, as a result, is subject to all of the same requirements that apply to Sample collection at Covered Horseraces. To schedule a Vets' List Workout, the Responsible Person or the Owner of the Covered Horse shall make a request to a Regulatory Veterinarian who shall, in turn, notify the Agency in order to make any necessary arrangements. The Agency must be given a minimum of 48 hours' notice of any Vets' List Workout.

Rule 3133. Requirements

(a) Testing. The Agency shall conduct test distribution planning and Testing in accordance with the Testing and Investigations Standards. The Agency may delegate authority to third parties, including State Racing Commissions (see Rule 3132), to conduct Testing (or aspects thereof) in accordance with the Testing and Investigations Standards under its supervision.

(b) Investigations and intelligence gathering. The Agency shall gather intelligence and conduct investigations, or delegate to third parties to do so under its supervision, in accordance with the Testing and Investigations Standards, which incorporate uniform rules and procedures in accordance with section 3054 of the Act providing for:

(1) access for the Agency to books, records, offices, racetrack facilities, and other places of business of Covered Persons that are used in the care, treatment, training, or racing of Covered Horses;

(2) the issuance and enforcement of subpoenas and subpoenas duces tecum by the Authority at the request of the Agency;

(3) the exercise of other investigatory powers similar in nature and scope to those exercised by State Racing Commissions before the Program Effective Date; and

(4) the coordination and sharing of intelligence and information with the Authority, law enforcement (authorized by any government, including Federal, State, or international), State Racing Commissions, Racetracks, Race Organizers, Training Facilities, Laboratories, anti-doping organizations, equine regulatory bodies, or other relevant regulatory or disciplinary authorities.

Rule 3134. Sample Analysis

Samples shall be analyzed in accordance with the principles set forth in Rules 3135 through 3139.

Rule 3135. Ownership of Samples

Samples collected under the Protocol are the property of the Authority, and the Authority is entitled (subject to Rule 3138(b)) to determine all matters regarding access to and the analysis and disposal of such Samples.

Rule 3136. Use of Approved Laboratories and Other Laboratories

(a) The Agency will publish a list of approved Laboratories, which may be revised from time to time.

(b) Subject to paragraph (d) below, Samples collected by or on behalf of the Agency pursuant to the Protocol will be analyzed by approved Laboratories. Only approved Laboratories may declare an Adverse Analytical Finding.

(c) Selection of Laboratories

(1) Subject to paragraph (2) below, a State Racing Commission may select a Laboratory to analyze A Samples or TCO2 Samples collected in its State. If a State Racing Commission does not select a Laboratory, the selection of the Laboratory to analyze such Samples shall be determined exclusively by the Agency.

(2) The Agency shall have the authority to require specific Samples to be directed to and analyzed by Laboratories having special expertise in the required analysis.

(3) The selection of the Laboratory for any B Sample analysis shall be determined exclusively by the Agency. The B Sample analysis (if applicable) will be performed in a different Laboratory from the A Sample analysis, except if provided otherwise in the Laboratory Standards.

(d) In accordance with Rule 3122, facts related to violations of the Protocol may be established by any reliable means. This would include, for example, laboratory analysis or other forensic testing conducted reliably outside of Agency-approved laboratories.

Rule 3137. Purpose of Sample Analysis

(a) General. Samples, related analytical data, Doping Control information, and Medication Control information shall be analyzed (1) to detect the presence of Prohibited Substances and Prohibited Methods identified on the Prohibited List (or Technical Document—Prohibited Substances) and other substances as may be directed pursuant to Rule 3114, (2) to assist the Agency in profiling relevant parameters in a Covered Horse's urine, blood, hair, or other matrix, including for DNA or genomic profiling, or (3) for any other legitimate purpose.

(b) Research on Samples and Data. Samples, related analytical data, Doping Control information, and Medication Control information may be used for anti-doping or medication control research purposes. However, the results of any analyses performed for such research purposes may not be used as the basis for pursuing an Anti-Doping Rule Violation or Controlled Medication Rule Violation.

Rule 3138. Standards for Sample Analysis and Reporting

(a) General. Laboratories may not accept or analyze any Samples from Covered Horses that were not collected

by or on behalf of the Agency or otherwise authorized by the Agency. Laboratories shall analyze Samples and report results in accordance with the Laboratory Standards. The results of all Sample analyses must be sent exclusively to the Agency via secure transmission in a form designated by the Agency. All communications must be conducted in such a way that the results of the Sample analyses are kept confidential.

(b) Further Analysis of a Sample prior to or during Results Management. Further Analyses may be conducted, without limitation, on a Sample prior to the time that it is reported as negative or prior to the time that the Agency notifies a Covered Person that the Sample is the basis for an Anti-Doping Rule Violation or Controlled Medication Rule Violation. If the Agency notifies a Covered Person that the Sample is the basis for an Anti-Doping Rule Violation or Controlled Medication Rule Violation, and the Agency wishes to conduct Further Analyses on that Sample after such notification, it may do so only with the consent of the Covered Person or the approval of the hearing panel adjudicating the case against the Covered Person.

(c) Further Analysis of a Sample after it has been reported as negative or has otherwise not resulted in an Anti-Doping Rule Violation or Controlled Medication Rule Violation. A Sample that has been reported as negative or has otherwise not resulted in a charge may be stored and subjected to Further Analyses for the purpose described in Rule 3137 at any time exclusively at the direction of the Agency. Any Sample storage and Further Analysis initiated by the Agency shall be at the Agency's expense. Further Analysis of Samples shall be conducted in accordance with the Laboratory Standards.

(d) Split of A or B Sample. Where, in exceptional circumstances, the Laboratory (on instruction from the Agency) is required to further split an A or B Sample for the purpose of using the first part of the resulting split Sample for an A Sample analysis and the second part of the resulting split Sample for B confirmation, the procedures and analysis shall be conducted in accordance with the Laboratory Standards.

Rule 3139. The Agency's Right To Take Possession of Samples and Related Data

The Agency may at any time, with or without prior notice, take physical possession of any Sample collected by or on behalf of the Agency and any related analytical data or information in the possession of a Laboratory. Upon request by the Agency, the Laboratory in possession of the Sample or related data shall grant access to and enable the Agency to take physical possession of the Sample or data as soon as possible.

Rule 3140. Clearance Testing

Clearance testing for a Covered Horse at the request of a Covered Person (*i.e.,* testing to determine if Controlled Medications Substances have cleared the horse's system) may be performed by a Laboratory only if in advance of such testing (1) the Agency approves such request (which approval may be subject to conditions determined by the Agency), and (2) the Covered Person pays for all of the costs of Sample collection and analysis. The Agency may pursue any violation of the Protocol that is evidenced by the results of the clearance testing.

3210. Anti-Doping Rule Violations

Rule 3211. Definition of Anti-Doping Rule Violation and Responsibility for Violations

(a) Doping cases will be initiated based on the assertion that one or more of Rules 3212 through 3216 has been violated (each, an Anti-Doping Rule Violation).

(b) The Anti-Doping Rule Violations described below may only be committed by Covered Persons, but the Consequences for Anti-Doping Rule Violations may apply to both the Covered Person(s) who commit(s) the violation and any Covered Horse(s) implicated by the violation.

(c) All Covered Persons are responsible for knowing what constitutes an Anti-Doping Rule Violation and what Banned Substances and what Banned Methods are included on the Prohibited List and Technical Document—Prohibited Substances.

Rule 3212. Presence of a Banned Substance

(a) It is the personal and non-delegable duty of the Responsible Person to ensure that no Banned Substance is present in the body of his or her Covered Horse(s). The Responsible Person is therefore strictly liable for any Banned Substance or its Metabolites or Markers found to be present in a Sample collected from his or her Covered Horse(s). Accordingly, it is not necessary to demonstrate intent, Fault, negligence, or knowing Use on the part of the Responsible Person in order to establish that the Responsible Person has committed a Rule 3212 Anti-Doping Rule Violation.

(b) Sufficient proof of a Rule 3212 Anti-Doping Rule Violation is established by any of the following:

(1) the presence of a Banned Substance or its Metabolites or Markers in the Covered Horse's A Sample where the Responsible Person waives analysis of the B Sample and the B Sample is not analyzed;

(2) the Covered Horse's B Sample is analyzed and the analysis of the B Sample confirms the presence of the Banned Substance or its Metabolites or Markers found in the A Sample; or

(3) where, in exceptional circumstances, the Laboratory (on instruction from the Agency) further splits the A or B Sample into two parts in accordance with the Laboratory Standards, the analysis of the second part of the resulting split Sample confirms the presence of the same Banned Substance or its Metabolites or Markers as were found in the first part of the split Sample, or the Responsible Person waives analysis of the second part of the split Sample.

(c) The general rule is that the presence of any amount of a Banned Substance or its Metabolites or Markers in a Sample collected from a Covered Horse constitutes an Anti-Doping Rule Violation by the Responsible Person of that Covered Horse.

(d) As an exception to the general rule of Rule 3212(c), the Prohibited List, Standards, or Technical Documents may establish special criteria for the reporting or the evaluation of certain Banned Substances, including a Minimum Reporting Level, Screening Limit, Threshold, or Decision Limit.

Rule 3213. Use or Attempted Use of a Banned Substance or a Banned Method

(a) Subject to Rule 3213(c), the Use or Attempted Use of a Banned Substance or Banned Method in relation to a Covered Horse constitutes an Anti-Doping Rule Violation. The success or failure of that Use or Attempted Use is not material. For a Rule 3213 violation to be committed, it is sufficient that the Banned Substance or Banned Method was Used or Attempted to be Used.

(b) It is the personal and non-delegable duty of the Responsible Person to ensure that no Banned Substance or Banned Method is Used in relation to his or her Covered Horse. The Responsible Person is therefore strictly liable for any Use of a Banned Substance or Banned Method in relation to his or her Covered Horse(s). Accordingly, it is not necessary to demonstrate intent, Fault, negligence, or knowing Use on the part of the Responsible Person in order to establish that the Responsible Person has committed a Rule 3213 Anti-Doping Rule Violation of Use. However, in accordance with the definition of

Attempt, it is necessary to show intent on the part of the Responsible Person in order to establish that the Responsible Person has committed a Rule 3213 Anti-Doping Rule Violation of Attempted Use.

(c) The presence of a Prohibited Substance or of evidence of Use of a Prohibited Method in the Covered Horse's Sample or other evidence of Use of such Prohibited Substance or Prohibited Method shall not be considered an Anti-Doping Rule Violation if it is determined to have resulted from Use of the Banned Substance or Banned Method prior to the horse becoming a Covered Horse. However, any such Use is subject to Rule 3040(b)(9) and may be reported to the relevant State Racing Commission.

Rule 3214. Other Anti-Doping Rule Violations Involving Banned Substances or Banned Methods

The following acts and omissions constitute Anti-Doping Rule Violations by the Covered Person(s) in question:

(a) Possession of a Banned Substance or a Banned Method, unless there is compelling justification for such Possession.

(b) Trafficking or Attempted Trafficking in any Banned Substance or Banned Method.

(c) Administration or Attempted Administration to a Covered Horse of any Banned Substance or any Banned Method.

Rule 3215. Evading Collection of a Sample From a Covered Horse; Refusing or Failing Without Compelling Justification To Submit a Covered Horse to Sample Collection; or Refusing or Failing To Comply With All Sample Collection Procedure Requirements

(a) Except as provided in Rule 3215(d), each of the following constitutes an Anti-Doping Rule Violation: (1) evading collection of a Sample from a Covered Horse, (2) refusing or failing without compelling justification to submit a Covered Horse to Sample collection after notification by a duly authorized person, or (3) refusing or failing to comply with all Sample collection procedure requirements.

(b) Responsible Persons are responsible for ensuring compliance with Rules 3040(b)(1) and 3040(b)(2). A Responsible Person may delegate the submission and supervision of the Covered Horse to a third party, but the Responsible Person remains responsible for the Covered Horse throughout the Sample collection process and for the acts and omissions of his or her delegate. Therefore, the Responsible Person shall be deemed liable for any evasion by his or her delegate of Sample collection, any refusal or failure by his or her delegate without compelling justification to submit the Covered Horse to Sample collection, or any refusal or failure by his or her delegate to comply with all Sample collection procedure requirements.

(c) Sample collection shall ordinarily be conducted where the Covered Horse is located (*e.g.,* Racetrack, Training Facility, or private facility), unless the Agency agrees that the Covered Horse may be transported to another agreed location (*e.g.,* a nearby Racetrack).

(d) No violation occurs where a Covered Horse is made available for Sample collection, but a Sample is not collected because the Covered Horse is intractable.

Rule 3216. Other Anti-Doping Rule Violations

The following acts and omissions constitute Anti-Doping Rule Violations by the Covered Person(s) in question:

(a) Tampering or Attempted Tampering by a Covered Person with any part of Doping Control or Medication Control;

(b) a Covered Person assisting, encouraging, aiding, abetting, conspiring, covering up, or engaging in any other type of intentional complicity or Attempted complicity involving (1) an Anti-Doping Rule Violation or Attempted Anti-Doping Rule Violation, or (2) a violation of Rule 3229 by another Covered Person.

(c) Prohibited Association:

(1) Association by a Covered Person in a professional or sport-related capacity with any Person who:

(i) is serving a period of Ineligibility imposed pursuant to the Protocol or is serving a period of ineligibility imposed pursuant to anti-doping rules administered by any other equine regulatory body or anti-doping organization; or

(ii) has been found in a criminal, disciplinary, or professional proceeding to have engaged in conduct that would have constituted a violation of the Protocol if it had been applicable to such Person at the relevant time. The disqualifying status of such Person shall last for the longer of:

(A) 6 years from the criminal, professional, or disciplinary decision; and (B) the duration of the criminal, disciplinary, or professional sanction imposed; or

(iii) is serving as a front or intermediary for an individual falling within paragraph (i) or (ii) above.

(2) To establish a violation of Rule 3216(c), the Agency must establish that the Covered Person knew at the relevant time of the Person's disqualifying status. It is presumed that any association with the Person described in Rules 3216(c)(1)(i) and (ii) is in a professional or sport-related capacity, and the burden shall be on the Covered Person to rebut that presumption.

(3) It shall be a defense to a charge of violation of Rule 3216 if the Covered Person establishes that the association with the Person could not have been reasonably avoided.

(d) Acts by a Covered Person to discourage or retaliate against reporting to authorities.

(1) Where such conduct does not otherwise constitute a violation under Rule 3216(a) (Tampering or Attempted Tampering), each of the following constitutes an Anti-Doping Rule Violation under this Rule 3216(d):

(i) any act that threatens or seeks to intimidate another Person with the intent of discouraging that Person from the good faith reporting of information that relates to an alleged Anti-Doping Rule Violation or other alleged non-compliance with the Protocol to the Agency or other appropriate Person; and

(ii) retaliation against a Person who, in good faith, has provided evidence or information that relates to an alleged Anti-Doping Rule Violation or other alleged non-compliance with the Protocol to the Agency or other appropriate entity or Person.

(2) For purposes of Rule 3216(d), threatening or seeking to intimidate a Person, and retaliation against a Person, include an act taken against such Person that lacks a good faith basis or is a disproportionate response.

3220. Sanctions

Rule 3221. Disqualification of the Covered Horse's Results

(a) Automatic Disqualification of results.

(1) An Anti-Doping Rule Violation that arises from a Post-Race Sample, or that occurs during the Race Period, automatically leads to Disqualification of the results of the Covered Horse obtained on the Race Day(s) that fall(s) within the Race Period, even if any other sanction for the violation is eliminated or reduced under Rules 3224, 3325, or 3226.

(2) In circumstances where an EAD Notice has been sent as required under Rule 3245, and the B Sample analysis confirms the A Sample analysis, or the right to request the analysis of the B Sample is waived, the Agency, the Responsible Person, and the Owner of the Covered Horse in question may agree to apply Rule 3221 immediately,

i.e., prior to adjudication of any other issue, or (in the absence of such agreement) any one of them may request that the Arbitral Body apply Rule 3221 immediately.

(b) Disqualification of subsequent results.

(1) Subject to paragraph (2), in addition to the automatic Disqualification of results under Rule 3221(a), any other results that the Covered Horse obtained from the date the Anti-Doping Rule Violation first occurred, as well as during any period of retroactive Ineligibility, shall be Disqualified, unless it is established by the Responsible Person that fairness requires otherwise.

(2) If the Anti-Doping Rule Violation occurs in relation to a Claiming Race in which the Covered Horse is claimed, Rule 3221(b)(1) shall not apply to any results obtained by the Covered Horse under the new ownership.

(c) Consequence of Disqualification of results:

(1) If a Covered Horse has results Disqualified under the Protocol, all purses and other compensation, prizes, trophies, points, and rankings are forfeited and must be repaid or surrendered (as applicable) to the Race Organizer, and the results of the other Covered Horses in the race(s) in question must be adjusted accordingly and the purses, prizes, and trophies redistributed. Purses, prizes, trophies, and other compensation shall (where possible) be withheld for the Covered Horse in issue pending resolution of the relevant charge.

(2) The Covered Horses that participated in a Covered Horserace involving an alleged Anti-Doping Rule Violation are often entered in other Covered Horseraces prior to the final adjudication of the violation. The ultimate Disqualification of a Covered Horse in connection with final adjudication of a violation shall only impact that horse's conditions for eligibility. By way of example, a maiden that is Disqualified after finishing first in a maiden race shall remain a maiden until it has won another race, but the runner-up in the disputed Covered Horserace shall not be considered the winner for purposes of its future condition eligibility. The adjustment to the Disqualified horse's condition eligibility shall only occur once the violation has been finally adjudicated.

Rule 3222. Ineligibility for Covered Horses

(a) For a violation of Rule 3212 (presence), 3213 (Use or Attempted Use), or Rule 3214(c) (Administration or Attempted Administration), the Covered Horse involved shall be Ineligible for the period designated in the Prohibited List for the Banned Substance or Banned Method in issue.

(b) For a violation of Rule 3215 involving evasion of Sample collection, the Covered Horse shall be Ineligible for 18 months. For a violation of Rule 3215 involving refusal or failure to submit to Sample collection, or refusal or failure to comply with all Sample collection procedure requirements, the Covered Horse shall be Ineligible for 18 months, unless it is established by the Responsible Person that fairness requires otherwise, in which case the period of Ineligibility may be reduced, depending on the specific circumstances of the case and considerations of horse welfare.

(c) Rule 3228 on increased periods of Ineligibility for repeat offenders does not apply to Covered Horses.

(d) The period of Ineligibility for a Covered Horse shall be deemed to commence on the date that the violation occurred (which, in the case of a Rule 3212 violation, shall be the date that the positive Sample was collected, even if the Covered Horse has participated in Timed and Reported Workouts or Covered Races after that date).

Rule 3223. Ineligibility and Financial Penalties for Covered Persons

(a) General.

(1) The periods of Ineligibility and financial penalties set out in this Rule 3223 apply to the Covered Person's first doping offense. Where an offense is not the Covered Person's first doping offense, Rule 3228 applies.

(2) Unless specified otherwise, the periods of Ineligibility set out in this Rule 3223 are subject to potential elimination, reduction, or suspension pursuant to Rules 3224 to 3226 or potential increase pursuant to Rule 3227.

(3) In accordance with Rule 3247(i), any period of Provisional Suspension served by the Covered Person shall be credited against the period of Ineligibility ultimately imposed on that Covered Person for the violation in question.

(b) Consequences.

Subject to Rule 3223(a), and in addition to any other Consequences that apply under the Protocol (including Disqualification), the periods of Ineligibility and financial penalties specified below shall apply to a Covered Person for his or her first Anti-Doping Rule Violation:

Anti-doping rule violation (first offense in 10-year period)	Period of ineligibility	Financial penalties
Presence (Rule 3212); Use or Attempted Use (Rule 3213); Possession (Rule 3214(a)); or Administration or Attempted Administration (Rule 3214(c)).	2 years	Fine of up to $25,000 or 25% of the total purse (whichever is greater); and Payment of some or all of the adjudication costs and the Agency's legal costs.
Trafficking or Attempted Trafficking (Rule 3214(b)).	Minimum of 4 years up to lifetime Ineligibility, depending on the seriousness of the violation. A violation involving a Minor shall be considered a particularly serious violation and shall result in lifetime Ineligibility for the Covered Person who commits it. A violation that may also violate non-sporting laws and regulations shall be reported to the competent administrative, professional, or judicial authorities.	Fine of up to $50,000 or 50% of the total purse (whichever is greater); and Payment of some or all of the adjudication costs and the Agency's legal costs.

Anti-doping rule violation (first offense in 10-year period)	Period of ineligibility	Financial penalties
Evading collection of a Sample from a Covered Horse; refusing or failing without compelling justification to submit a Covered Horse to Sample collection; or refusing or failing to comply with all Sample collection procedure requirements (Rule 3215); or Tampering or Attempted Tampering (Rule 3216(a)).	4 years, except: in the case of failing to submit to Sample collection, if the Covered Person can establish that the failure was not intentional, the period of Ineligibility shall be in a range between 3 months to 2 years, depending on his or her degree of Fault; and, in all other cases, if the Covered Person can establish exceptional circumstances that justify a reduction of the period of Ineligibility, the period of Ineligibility shall be in a range from 3 months to 4 years, depending on his or her degree of Fault.	Fine up to $50,000 or 50% of the total purse (whichever is greater); and Payment of some or all of the adjudication costs and the Agency's legal costs.
Complicity or Attempted complicity (Rule 3216(b)).	Same Consequences that apply to the principal actor, absent mitigating or aggravating circumstances.	
Prohibited Association (Rule 3216(c))	2 years, subject to a reduction down to a minimum of 1 year, depending on the Covered Person's degree of Fault and other circumstances of the case.	Fine up to $25,000 or 25% of the total purse (whichever is greater); and Payment of some or all of the adjudication costs and the Agency's legal costs.
Acts to discourage or retaliate against reporting (Rule 3216(d)).	2 years up to lifetime Ineligibility, depending on the seriousness of the violation.	Fine of up to $50,000 or 50% of the total purse (whichever is greater); and Payment of some or all of the adjudication costs and the Agency's legal costs.

(c) Commencement of the period of Ineligibility for a Covered Person.

(1) Except as otherwise provided in this Rule 3223, the period of Ineligibility imposed on any Covered Person shall start on the date the period of Ineligibility is accepted or otherwise imposed in accordance with the Protocol.

(2) Where a Covered Person is already serving a period of Ineligibility for another violation of the Protocol, any new period of Ineligibility shall start to run the day after the original period of Ineligibility ends.

(3) Where there have been substantial delays in the adjudication process or other aspects of Doping Control that go well beyond the standard timeframes for Laboratory analyses and Results Management, and the Covered Person can establish that such delays are not attributable to him or her, the start date of the period of Ineligibility may be deemed back-dated to reflect such delays, but in no event may it be deemed back-dated to a date before the Anti-Doping Rule Violation last occurred. All competitive results achieved during the period of Ineligibility by the Covered Person or Covered Horse in issue, including retroactive Ineligibility, shall be Disqualified, unless it is established by the Covered Person that fairness requires otherwise.

Rule 3224. Elimination of the Period of Ineligibility Where There Is No Fault or Negligence

(a) If a Covered Person establishes in an individual case that he or she bears No Fault or Negligence for the Anti-Doping Rule Violation(s) charged, the otherwise applicable period of Ineligibility and other Consequences for such Covered Person shall be eliminated (except for those set out in Rule 3221(a) and Rule 3620). When the violation is of Rule 3212 (presence of a Banned Substance), the Covered Person must also establish how the Banned Substance entered the Covered Horse's system as a pre-condition to application of this Rule 3224(a). In the event the period of Ineligibility otherwise applicable is eliminated pursuant to this Rule 3224, the Anti-Doping Rule Violation shall not be considered a prior violation for the purpose of Rule 3228.

(b) Rule 3224 only applies in exceptional circumstances. In particular, it will not apply where the Banned Substance found to be present in a Sample: (1) came from a mislabeled or contaminated supplement; or (2) was administered to the Covered Horse by veterinary or other support personnel without the knowledge of the Responsible Person.

(c) A finding that the Covered Person bears No Fault or Negligence for an Anti-Doping Rule Violation shall not affect the Consequences of that violation that apply to the Covered Horse (*i.e.,* Ineligibility in accordance with Rule 3222(a) and Disqualification of results in accordance with Rule 3221).

Rule 3225. Reduction of the Period of Ineligibility Where There Is No Significant Fault or Negligence

Reductions under this Rule 3225 are mutually exclusive and not cumulative, *i.e.,* no more than one of them may be applied in a particular case.

(a) General rule.

Where the Covered Person establishes that he or she bears No Significant Fault or Negligence for the Anti-Doping Rule Violation in question, then (unless Rule 3225(b) or 3225(c) applies) the period of Ineligibility shall be fixed between 3 months and 2 years, depending on the Covered Person's degree of Fault.

(b) Specified Substances.

Where the Covered Person establishes that he or she bears No Significant Fault or Negligence for the Anti-Doping Rule Violation in question, and the violation involves only a Specified Substance, the period of Ineligibility shall be, at a minimum, a reprimand and no period of Ineligibility, and, at a maximum, 2 years of Ineligibility, depending on the Covered Person's degree of Fault.

(c) Contaminated Products or other contamination.

Where the Covered Person establishes that he or she bears No Significant Fault or Negligence for the Anti-Doping Rule Violation in question and that the Banned Substance in question came from a Contaminated Product or from another form of contamination, the period of Ineligibility shall be, at a minimum, a reprimand and no period of

Ineligibility, and, at a maximum, 2 years of Ineligibility, depending on the Covered Person's degree of Fault.

Rule 3226. Elimination, Reduction, or Suspension of Period of Ineligibility or Other Consequences for Reasons Unrelated to Degree of Fault

(a) Substantial Assistance. The Agency may suspend all or part of the Consequences imposed on a Covered Person in an individual doping case—other than Disqualification of results pursuant to Rule 3221—based on the following:

(1) The Covered Person provides Substantial Assistance to the Agency, the Authority, or a State Racing Commission, a criminal authority, or a professional disciplinary body that results in:

(i) the Agency discovering or bringing forward an Anti-Doping Rule Violation or a Controlled Medication Rule Violation by another Covered Person; or

(ii) a criminal or disciplinary body discovering or bringing forward a sport-related criminal offense or the breach of professional or sports rules by another Person, including offenses arising out of a sport integrity violation or sport safety violation, or the violation of any rule or requirement in the Act, and the information provided by the Covered Person providing Substantial Assistance is also made available to the Agency.

(2) The extent to which the otherwise applicable period of Ineligibility may be suspended shall be based on the seriousness of the Anti-Doping Rule Violation committed by the Covered Person and the degree to which the Substantial Assistance provided by the Covered Person assists the effort to promote doping-free racing, compliance with the Protocol, or the integrity of racing. In any event, no more than three-quarters of the otherwise applicable period of Ineligibility may be suspended. If the otherwise applicable period of Ineligibility is a lifetime, the non-suspended period under this section must be no less than 8 years. For purposes of this Rule 3226, the otherwise applicable period of Ineligibility shall not include any period of Ineligibility that could be added under Rule 3228(c)(2).

(3) If so requested, the Agency shall allow the Covered Person who seeks to provide Substantial Assistance to provide the information to the Agency subject to a Without Prejudice Agreement.

(4) If the Covered Person fails to continue to cooperate or fails to provide the complete, accurate, and credible Substantial Assistance promised, the Agency shall reinstate the original Consequences. That decision is not subject to review.

(b) Voluntary Admission of an Anti-Doping Rule Violation in the absence of other evidence. If (1) the Covered Person voluntarily admits the commission of an Anti-Doping Rule Violation before receiving the EAD Notice or (in the case of a Rule 3212 violation) before having received notice of a Sample collection that could establish the Anti-Doping Rule Violation, and (2) that admission is the only reliable evidence of the violation at the time the admission is made, the otherwise applicable period of Ineligibility may be reduced by up to one-half.

(c) Application of multiple grounds for reduction of a sanction. If the Covered Person establishes entitlement to a reduction or suspension of the period of Ineligibility under 2 or more of Rules 3224, 3225, or 3226, the otherwise applicable period of Ineligibility shall be determined in accordance with Rules 3223, 3224, and 3225 before applying any reduction or suspension under Rule 3226. If the Covered Person establishes entitlement to a reduction or suspension of the period of Ineligibility under Rule 3226, up to three-quarters of the otherwise applicable period of Ineligibility may be reduced or suspended.

(d) Reductions for certain Anti-Doping Rule Violations based on early admission and acceptance of sanction.

(1) If the Agency notifies a Covered Person of a potential Anti-Doping Rule Violation that carries an asserted period of Ineligibility of 4 or more years (including any period of Ineligibility asserted under Rule 3227), if the Covered Person admits the violation and accepts the asserted period of Ineligibility no more than 7 days after receiving the Charge Letter, the period of Ineligibility to be served will be automatically reduced by 1 year (but no further reduction shall be allowed under any other Rule).

(2) If the Agency notifies a Covered Person of a potential Anti-Doping Rule Violation that carries an asserted period of Ineligibility of 2 years or more years, but less than 4 years (including any period of Ineligibility asserted under Rule 3227), if the Covered Person admits the violation and accepts the asserted period of Ineligibility no more than 7 days after receiving the Charge Letter, the period of Ineligibility to be served will be automatically reduced by 6 months (but no further reduction shall be allowed under any other Rule).

Rule 3227. Aggravating Circumstances

(a) In an individual case involving an Anti-Doping Rule Violation that is not a Rule 3214(b) violation (Trafficking or Attempted Trafficking) or a Rule 3216(d) violation (acts to discourage or retaliate against reporting), if the Agency establishes that Aggravating Circumstances are present, the period of Ineligibility otherwise applicable shall be increased by up to 2 years, depending on the seriousness of the Aggravating Circumstances, unless the Covered Person establishes that he or she did not knowingly commit the Anti-Doping Rule Violation. Where the period of Ineligibility is increased pursuant to this Rule, an additional fine of up to $10,000 or an additional 10% of the total purse (whichever is greater) may also be imposed.

(b) Actions and circumstances constituting Aggravating Circumstances include:

(1) Administration of a Banned Substance or Use of a Banned Method that is detrimental to the health and welfare of the horse or is designed to deceive the betting public;

(2) the presence in the Covered Horse's Sample of a combination of Banned Substance(s) and Controlled Medication Substance(s);

(3) prior violations under the Protocol; or

(4) the Covered Person engaged in deceptive or obstructive conduct to avoid the detection or adjudication of an Anti-Doping Rule Violation or a Controlled Medication Rule Violation, for which the Covered Person has not been separately sanctioned for Tampering.

(c) For the avoidance of doubt, the examples set out in Rule 3227(b) are not exhaustive and other similar circumstances or conduct may also be deemed to amount to Aggravating Circumstances that justify the imposition of a longer period of Ineligibility.

Rule 3228. Increased Sanctions for Repeat Offenders

(a) For purposes of this Rule 3228, the following prior Anti-Doping Rule Violations shall be disregarded: (1) violations that occurred more than 10 years prior to the violation now being sanctioned; and (2) violations for which the Covered Person was found to bear No Fault or Negligence.

(b) Subject to Rule 3228(a), and in addition to any other Consequences that apply under the Protocol (including Disqualification), the periods of Ineligibility and financial penalties specified below shall apply to any Covered Person who commits a second or subsequent Anti-Doping Rule Violation:

Number of anti-doping rule violations (in 10-year period)	Period of ineligibility	Financial penalties
Second Anti-Doping Rule Violation	The period of Ineligibility shall be the greater of: (a) a 6-month period of Ineligibility; or (b) a period of Ineligibility in the following range, taking into account the entirety of the circumstances and the Covered Person's degree of Fault with respect to the second violation: (i) the sum of the period of Ineligibility imposed for the first Anti-Doping Rule Violation, plus the period of Ineligibility otherwise applicable to the second Anti-Doping Rule Violation treated as if it were a first violation; and (ii) twice the period of Ineligibility otherwise applicable to the second Anti-Doping Rule Violation treated as if it were a first violation.	Fine of up to $50,000 or 50% of the total purse (whichever is greater); and Payment of some or all of the adjudication costs and the Agency's legal costs.
Third (or subsequent) Anti-Doping Rule Violation.	Lifetime Ineligibility, except if the third violation satisfies the conditions for elimination or reduction of the period of Ineligibility under Rule 3224 or Rule 3225, in which case the period of Ineligibility shall be from 8 years to lifetime Ineligibility. If the above exception applies, the same rule shall apply to any subsequent violation.	Fine of up to $100,000 or 100% of the total purse (whichever is greater); and Payment of some or all of the adjudication costs and the Agency's legal costs.

(c) Additional rules for certain multiple violations.

(1) Multiple violations for the same Banned Substance/Method incurred by a Covered Person in relation to the same Covered Horse prior to delivery of an EAD Notice may (at the Agency's discretion) be treated together as a single Anti-Doping Rule Violation, unless the facts demonstrate that there was more than one administration. Multiple violations for the same Banned Substance/Method incurred by a Covered Person in relation to different Covered Horses prior to delivery of an EAD Notice may (at the Agency's discretion) each be treated as a first Anti-Doping Rule Violation. Where multiple Banned Substances are detected in a single Post-Race Sample or Post-Work Sample, each Banned Substance may (at the Agency's discretion) be treated as a separate violation.

(2) If the Agency establishes that, prior to receiving an EAD Notice in respect of one Anti-Doping Rule Violation, the Covered Person committed an additional Anti-Doping Rule Violation that occurred 12 months or more before or after the violation asserted in that EAD Notice, the period of Ineligibility for the additional violation shall be calculated as if the additional violation were a stand-alone first violation, and that period of Ineligibility will run consecutively to (rather than concurrently with) the period of Ineligibility imposed for the first-notified violation. Where this Rule applies, the violations taken together will constitute a single violation for purposes of Rule 3228.

(3) If a Doping Control process results in the assertion of an Anti-Doping Rule Violation, and the Agency establishes that the Covered Person committed an independent violation of Rule 3216(a) (Tampering) in connection with that Doping Control process, the Rule 3216(a) (Tampering) violation shall be treated as a stand-alone violation and the period of Ineligibility for such violation shall be served consecutively to, rather than concurrently with, the period of Ineligibility imposed for the other Anti-Doping Rule Violation. Where this Rule 3228(c)(3) is applied, the violations taken together shall constitute a single violation for purposes of Rule 3228.

(4) If the Agency establishes that the Covered Person has committed a further violation of the Protocol during a period of Ineligibility, any new period of Ineligibility shall start to run the day after the original period of Ineligibility ends.

(d) Violations involving both a Banned Substance or Method and a Controlled Medication Substance or Method.

Where a Covered Person is found, based on a common set of facts, to have committed a (1) violation involving one or more Banned Substance(s) or Banned Method(s), and (2) a violation involving one or more Controlled Medication Substance(s) or Controlled Medication Method(s), they shall be treated as separate violations, but shall be adjudicated together in consolidated proceedings pursuant to the procedure that applies to Anti-Doping Rule Violations under the Arbitration Procedures.

Rule 3229. Status During Provisional Suspension or Ineligibility

(a) While serving a Provisional Suspension or period of Ineligibility for an Anti-Doping Rule Violation:

(1) a Covered Horse may not participate in any Timed and Reported Workout or Covered Horserace, but shall remain subject to Testing;

(2) a Covered Person may not participate in any capacity in any activity involving Covered Horses, or in any other activity (other than authorized anti-doping education or rehabilitation programs) taking place at a Racetrack or Training Facility; nor shall he or she permit anyone to participate in any capacity on his or her behalf in any such activities, except to the extent that the Covered Person is an Owner and the activity is necessary to ensure the safekeeping and wellbeing of the horse during the period of such Owner's Provisional Suspension or Ineligibility.

(b) The Covered Horse(s) of an Owner or Trainer who is subject to a Provisional Suspension or period of Ineligibility shall be subject to the following restrictions:

(1) The Covered Horse(s) of a Trainer who is subject to a Provisional Suspension or period of Ineligibility may not participate in any Timed and Reported Workout or Covered Horserace unless and until they have been transferred to another Covered Person. For the ''transfer'' to be valid, (i) the transfer must be registered with the Authority in accordance with its procedures, and (ii) the Covered Horses must also be physically relocated to facilities under the care or control of a Covered Person who is not affiliated

with the suspended Trainer (and failure to comply may constitute an Anti-Doping Rule Violation under Rule 3216(c), *i.e.,* Prohibited Association).

(2) The Covered Horse(s) of an Owner who is subject to a Provisional Suspension or period of Ineligibility may not participate in any Timed and Reported Workout or Covered Horserace unless and until they have been transferred in a bona fide transaction to a different Owner. If an Immediate Family Member has any ownership or property interest in the Covered Horse(s) following such transfer, the transfer shall not constitute a bona fide transaction to a different Owner.

Rule 3230. Consequences for Violation of the Prohibition on Participation During Ineligibility or Provisional Suspension Under Rule 3229

(a) Consequences for violation of the prohibition on participation during Ineligibility.

(1) If a Covered Person violates the prohibition against participation during Ineligibility described in Rule 3229, any results obtained from such participation shall be Disqualified and a new period of Ineligibility equal in length to the original period of Ineligibility shall be added to the end of the Covered Person's original period of Ineligibility.

(2) If a Covered Horse participates in any Timed and Reported Workout or Covered Horserace in violation of the prohibition against participation during Ineligibility described in Rule 3229, any results obtained from such participation shall be Disqualified and the Responsible Person for that Covered Horse shall receive the following period of Ineligibility:

(i) if the Responsible Person was subject to an original period of Ineligibility, a new period of Ineligibility equal in length to the original period of Ineligibility shall be added to the end of the original period of Ineligibility. If the original period of Ineligibility has already expired, the new period of Ineligibility shall start on the date that it is accepted or imposed; or

(ii) if the Responsible Person was not subject to an original period of Ineligibility, the period of Ineligibility for violating Rule 3229 shall be from a reprimand to 1 year, depending on the Covered Person's degree of Fault.

(b) Consequences for violation of the prohibition on participation during Provisional Suspension.

(1) A Covered Person who violates the prohibition against participation during a Provisional Suspension shall receive no credit for any period of Provisional Suspension served and the results of such participation shall be Disqualified.

(2) If a Covered Horse participates in any Timed and Reported Workout or Covered Horserace in violation of the prohibition against participation during a Provisional Suspension described in Rule 3229, the Responsible Person for that Covered Horse and the Covered Horse shall receive no credit for any period of Provisional Suspension served and the results of such participation shall be Disqualified.

(c) The consequence of Disqualification under this Rule 3230 shall be the same as set out in Rule 3221(c).

(d) The Arbitral Body (or the Agency, if the Covered Person admits the violation and accepts the consequences) shall determine whether there has been a violation of the prohibition against participation during Provisional Suspension or Ineligibility and apply the appropriate consequences pursuant to Rule 3261.

Rule 3231. Automatic Public Disclosure

A mandatory part of each sanction shall include automatic Public Disclosure in accordance with Rule 3620.

Rule 3232. Conditions Precedent to Reinstatement for Covered Persons

(a) To be reinstated after commission of an Anti-Doping Rule Violation, the Covered Person must have respected his or her period of Ineligibility (Rule 3229); and repaid or surrendered any purses and other compensation, prizes, trophies, points, and rankings forfeited pursuant to Rule 3221, and paid any fines and reimbursed any costs imposed or accepted to the Agency, unless an installment plan was established pursuant to Rule 3232(b), in which case the Covered Person must have made all payments due under that plan. If any installment(s) subsequently become(s) overdue under that plan (*i.e.,* after reinstatement), the Covered Person and the Covered Horses under his or her ownership or training may not participate in any Timed and Reported Workout or Covered Horserace until such overdue installment(s) is/are paid in full.

(b) Where fairness requires, the Agency or the Arbitral Body may establish an installment plan for repayment of amounts due to be paid or reimbursed under the Protocol. The payment schedule may extend beyond any period of Ineligibility imposed upon the Covered Person.

Rule 3233. Conditions Precedent to Reinstatement for Covered Horses

(a) A Covered Horse shall be reinstated once its period of Ineligibility ends, provided that (1) the Ineligibility has been respected in full throughout that period in accordance with Rule 3229, (2) the Covered Horse has been made available for Testing during that period in accordance with Rule 3132(d), and (3) the Covered Horse has completed any Vets' List Workout(s) required by the Racetrack Safety Program or the Agency (for the avoidance of doubt, such workouts may be scheduled prior to the expiry of the period of Ineligibility and will not constitute a violation of Rule 3229).

(b) Any reinstatement pursuant to this Rule 3233 is without prejudice to any rest or stand down period that may be imposed on the Covered Horse (*e.g.,* due to injuries), and any requirements for release from the Veterinarians' List, pursuant to the Racetrack Safety Program.

3240. Results Management

Rule 3241. General

Where there is evidence of a potential Anti-Doping Rule Violation(s), the Agency will conduct Results Management in accordance with this section 3240 and the Testing and Investigations Standards.

Rule 3242. Review of Adverse Analytical Findings

(a) Upon receipt of an Adverse Analytical Finding in relation to an A Sample, the Agency will conduct a review of the Laboratory certificate of analysis supporting the Adverse Analytical Finding and the relevant Sample collection documentation and Testing documents to determine whether the Adverse Analytical Finding was caused by any apparent departure from the Testing and Investigations Standards, the Laboratory Standards, or any provision of the Protocol. Subject to Rule 3242(b), the Agency may, but does not have to, communicate with the Responsible Person and Owner during such review.

(b) If the review under Rule 3242(a) reveals an apparent departure that caused the Adverse Analytical Finding, the entire test shall be considered negative, and the Agency shall promptly inform the Responsible Person and each Interested Party of that fact.

(c) If the initial review of an Adverse Analytical Finding under Rule 3242(a) does not reveal an apparent departure that caused the Adverse Analytical Finding, the Agency shall promptly send an EAD Notice to the Responsible

Person and each Interested Party in accordance with Rule 3245.

Rule 3243. Review of Atypical Findings Relating to Banned Substances

(a) In certain circumstances, Laboratories may report the presence of certain Banned Substances as ''Atypical Findings'' in accordance with the Atypical Findings Policy set out at Appendix 1. Upon receipt of an A Sample Atypical Finding, the Agency will conduct a review to determine whether the Atypical Finding was caused by a departure from the Testing and Investigations Standards, the Laboratory Standards, or any provision of the Protocol. If that review does not reveal any departure that caused the Atypical Finding, the Agency will conduct an investigation (including directing any Further Analysis) or take any other steps required to decide whether the Atypical Finding should be brought forward as an Adverse Analytical Finding, in accordance with the Atypical Findings Policy.

(b) The Agency may, but does not have to, provide notice of an Atypical Finding to anyone until it has made that decision unless one of the following circumstances exists:

(1) if the Agency determines that the B Sample should be analyzed prior to the conclusion of its investigation, the Agency may conduct the B Sample analysis after notifying the Responsible Person and the Owner, with such notice to include a description of the Atypical Finding and the information described in Rule 3245; or

(2) if the Atypical Finding is likely connected to a serious pathology that requires urgent veterinary attention.

(c) If the Agency ultimately decides not to pursue the Atypical Finding as an Adverse Analytical Finding, the Agency may, but does not have to, communicate that fact to the Responsible Person and Owner unless he or she has previously received notice of the Analytical Finding pursuant to Rule 3243(b).

(d) If the Agency decides to move forward with the matter as an Adverse Analytical Finding, the Agency shall promptly send an EAD Notice to the Responsible Person and each Interested Party.

Rule 3244. Review of Other Evidence of a Potential Anti-Doping Rule Violation

The Agency shall conduct any follow-up investigation required into any potential Anti-Doping Rule Violation not covered by Rules 3242 or 3243. At such time as the Agency is satisfied that it has sufficient evidence to establish that an Anti-Doping Rule Violation occurred, it shall promptly send an EAD Notice to the relevant Covered Person and each Interested Party.

Rule 3245. EAD Notice

(a) Where it is determined that a Covered Person may have committed one or more Anti-Doping Rule Violations, the Agency will promptly notify the Covered Person and each Interested Party in writing of the following (the EAD Notice):

(1) the alleged Anti-Doping Rule Violation and the Consequences if it is agreed or determined to have been committed;

(2) the Adverse Analytical Finding (with a copy of the Laboratory certificate of analysis in a form designated by the Agency) or a brief summary of the facts relied on by the Agency to assert the alleged violation (including, where applicable, the name of the Covered Horse implicated in the alleged violation, whether the alleged violation was in connection with a particular Covered Horserace, and the date of Sample collection or of the other relevant facts said to give rise to the violation);

(3) if applicable, the right of the Responsible Person and the Owner to receive copies of the A Sample Laboratory Documentation Package after the B Sample analysis has been completed or after such analysis is waived;

(4) if applicable, the following details regarding the B Sample analysis:

(i) that the B Sample has been (or will be) analyzed because the Agency has authorized immediate analysis to preserve the scientific integrity of the Sample;

(ii) if the B Sample has not been analyzed, the Responsible Person's and Owner's right to promptly request the analysis of the B Sample within no more than 5 days or (failing such request) that the B sample analysis shall be deemed to be waived;

(iii) an explanation that, where the Responsible Person or Owner requests the B Sample analysis within the applicable deadline, or where the Agency decides to proceed with the B Sample analysis, the Agency will notify the Responsible Person and Owner of the date, time, and place where the B Sample will be analyzed and (where the analysis is requested by the Responsible Person or Owner) the amount that the Responsible Person or Owner must pay to have the B Sample tested and B Sample Laboratory Documentation Package prepared, and the date by which such payment must be received, failing which the B Sample analysis shall be deemed to have been waived; and

(5) the opportunity for the Covered Person to provide an explanation within a short deadline set by the Agency;

(6) the opportunity to provide Substantial Assistance, to admit the Anti-Doping Rule Violation, or to seek to resolve the matter without a hearing under Rule 3249;

(7) all relevant details relating to any Provisional Suspension (including, if applicable, the possibility to accept a voluntary Provisional Suspension) in accordance with Rule 3247; and

(8) if applicable, the ability for the automatic Disqualification of results to be applied immediately in accordance with Rule 3221(a)(2).

(b) Before sending an EAD Notice, for purposes of Rule 3228, the Agency shall seek to determine whether the Covered Person in question has committed any prior violations under the Protocol.

(c) Any defect in the EAD Notice (including a failure to identify the Covered Horseraces implicated in the alleged violation, if any) may be corrected by the Agency and shall not in any event invalidate the EAD Notice or affect the due application of the provisions of the Protocol (including the Disqualification provisions) in relation to that violation.

Rule 3246. B Sample Analysis

(a) Arrangements shall be made for analysis of the B Sample without undue delay, in accordance with the Protocol and the Laboratory Standards. Subject to Rule 3246(b), the Responsible Person or Owner must pay the costs of the B Sample analysis in advance, but, if the B Sample analysis does not confirm the A Sample analysis, they will be reimbursed that cost by the Agency. The Responsible Person and Owner or one representative each may attend the Laboratory to witness the opening and identification of the B Sample. They do not have any right to witness the analysis of the B Sample.

(b) The Responsible Person and Owner may (if they both agree) waive analysis of the B Sample (in which case they shall be deemed to accept the A Sample analytical results). If waived, the Agency may nonetheless elect to proceed with the B Sample analysis at its own expense.

(c) If the B Sample proves negative, the entire Test shall be considered negative, and the Responsible Person and Owner shall be so informed. In such circumstances, unless the Agency asserts an Anti-Doping Rule Violation under Rule 3213 (Use), the EAD Notice will be withdrawn, any Provisional Suspensions imposed shall be deemed automatically vacated with immediate effect (without the need for any order

from the Arbitral Body), and no further disciplinary action will be taken against the Responsible Person, other Covered Person, or Covered Horse by the Agency in relation to the original Adverse Analytical Finding (provided, however, that the Agency may investigate why the B Sample did not match the A Sample). If the Agency asserts that a Rule 3213 (Use) violation has occurred, it shall send a Charge Letter to the Responsible Person and other Covered Person(s), with a copy to each Interested Party.

(d) If the presence of a Banned Substance or the Use of a Banned Method is confirmed by the B Sample analysis, or the B Sample analysis is waived, the Agency shall send a Charge Letter to the Responsible Person and any other relevant Covered Person(s), with a copy to each Interested Party, asserting that a Rule 3212 (presence) violation or a Rule 3213 (Use) violation (as applicable) has occurred.

Rule 3247. Provisional Suspensions

(a) Provisional Suspensions shall be imposed as follows:

(1) For each alleged violation of Rule 3212 (presence), 3213 (Use), or 3214(c) (Administration or Attempted Administration) that involves a Banned Substance that is not a Specified Substance, the Agency shall impose a Provisional Suspension, effective from the date specified by the Agency in the EAD Notice or in further correspondence up to and including the Charge Letter, on (i) the Covered Horse, (ii) the Responsible Person, and (iii) any other Covered Person charged with the violation.

(2) For each alleged violation of Rule 3215 (evading Sample collection; refusing or failing to submit to Sample collection; or refusing or failing to comply with all Sample collection procedure requirements), the Agency may impose a Provisional Suspension, effective from the date specified by the Agency in the EAD Notice or in further correspondence up to and including the Charge Letter, on (i) the Covered Horse, (ii) the Responsible Person, or (iii) any other Covered Person charged with the violation.

(3) For all other alleged Anti-Doping Rule Violations, the Agency may impose a Provisional Suspension, effective from the date specified by the Agency in the EAD Notice or in further correspondence up to and including the Charge Letter, on the Responsible Person, or any other Covered Person alleged to be implicated in the violation, but not on the Covered Horse.

(b) Where a Provisional Suspension is imposed pursuant to Rule 3247(a), the Responsible Person (on his or her own behalf and on behalf of the Covered Horse) and any other Covered Person made subject to the Provisional Suspension shall be given:

(1) an opportunity for a Provisional Hearing before imposition of the Provisional Suspension;

(2) an opportunity for a Provisional Hearing on a timely basis after imposition of the Provisional Suspension; or

(3) an opportunity for an expedited final adjudication in accordance with Rule 3262 on a timely basis after imposition of the Provisional Suspension.

(c) Provisional Hearings shall be conducted by the Arbitral Body and heard via telephone or video conference call within the time frame specified in accordance with the Arbitration Procedures. The sole issue to be determined by the Arbitral Body will be whether the Agency's decision to impose a Provisional Suspension shall be maintained. The Agency's decision to impose a Provisional Suspension shall be maintained unless the Responsible Person/Covered Person requesting the lifting of the Provisional Suspension establishes that:

(1) the allegation that an Anti-Doping Rule Violation has been committed has no reasonable prospect of being upheld, *e.g.,* because of a material defect in the evidence on which the allegation is based;

(2) the Responsible Person/Covered Person charged bears No Fault or Negligence for the Anti-Doping Rule Violation that is alleged to have been committed, so that any period of Ineligibility that might otherwise be imposed for such offense would be completely eliminated by application of Rule 3224. (This ground does not apply in respect of any Provisional Suspension imposed on a Covered Horse);

(3) Rule 3225 applies and the Responsible Person/Covered Person bears No Significant Fault or Negligence and he or she will likely be given a period of Ineligibility that is not longer than the period for which he or she has already been provisionally suspended (this ground does not apply in respect of any Provisional Suspension imposed on a Covered Horse); or

(4) exceptional circumstances exist that make it clearly unfair, taking into account all of the circumstances of the case, to impose a Provisional Suspension prior to the final hearing on the merits. This ground is to be construed narrowly and applied only in truly exceptional circumstances. For example, the fact that the Provisional Suspension would prevent the Responsible Person, Covered Person, or Covered Horse from participating in a particular Timed and Reported Workout, Covered Horserace, or other activity shall not qualify as exceptional circumstances for these purposes.

(d) If the application is made before the Provisional Suspension comes into effect, the Provisional Suspension will not come into effect pending the decision on the application. If the application is made after the Provisional Suspension has come into effect, the Provisional Suspension will remain in place pending the decision on the application.

(e) If it considers it appropriate to do so on the specific facts of the case, the Agency may lift the Provisional Suspension.

(f) If the application to have a Provisional Suspension not imposed/lifted is not granted, a further application may not be made to lift the Provisional Suspension unless: (i) it is based on new and material evidence that the Responsible Person or other Covered Person was not aware of and could not reasonably have been aware of at the time he or she made the original application; or (ii) there has been some other significant and material change in circumstances since the original application was decided. If the Responsible Person or other Covered Person makes a further application that does not meet either of these requirements, costs may be awarded against him or her.

(g) Voluntary Provisional Suspension.

(1) In all cases where a Responsible Person/Covered Person has been notified of or charged with an Anti-Doping Rule Violation, but no Provisional Suspension has been imposed on him or her or on the Covered Horse, that person may (on his or her own behalf and, if the Responsible Person, on behalf of the Covered Horse) voluntarily accept a Provisional Suspension at any time by written notice to the Agency. A copy of the voluntary Provisional Suspension shall promptly be provided to each Interested Party.

(2) A Provisional Suspension that is voluntarily accepted will have effect (in the same manner as if the Provisional Suspension had been imposed under Rule 3247(a)) from the date that written notice of its acceptance is received by the Agency.

(h) No admission will be inferred, or other adverse inference drawn, from the decision of a Covered Person: (1) not to make an application to lift a Provisional Suspension; or (2) to accept a voluntary Provisional Suspension.

(i) If a Provisional Suspension is imposed or voluntarily accepted, and that Provisional Suspension is respected, then the Responsible Person/Covered Person and Covered Horse in question shall receive a credit for such period of Provisional Suspension against any period of Ineligibility that may ultimately be imposed. If the Responsible Person/Covered Person or Covered Horse does not respect a Provisional Suspension, the Responsible Person/Covered Person or Covered Horse shall receive no credit for any period of Provisional Suspension served. If a period of Ineligibility is served pursuant to a decision that is subsequently subject to review, the Responsible Person/Covered Person or Covered Horse shall receive a credit for such period of Ineligibility served against any period of Ineligibility that may ultimately be imposed on review.

(j) Notwithstanding any other provision in this Rule 3247 or elsewhere in the Protocol, any Provisional Suspension imposed on a Covered Horse will be automatically lifted (without the need for any hearing) if it has been in place for a period equal to the period of Ineligibility specified in the Protocol or Prohibited List.

Rule 3248. Charge Letter

If, after receipt of the Covered Person's explanation, or expiry of the deadline to provide such explanation, the Agency remains satisfied that the Covered Person has committed an Anti-Doping Rule Violation(s), the Agency shall promptly charge the Covered Person with the asserted Anti-Doping Rule Violation(s). In this letter of charge (Charge Letter), which will be copied to each Interested Party, the Agency shall:

(a) set out the Anti-Doping Rule Violation(s) that the Covered Person is charged with having committed;

(b) provide a summary of the relevant facts upon which the charge is based, enclosing a copy of the A Sample Laboratory Documentation Package and (if applicable and if requested) the B Sample Laboratory Documentation Package;

(c) specify the Consequences that will apply if the charge is upheld;

(d) grant a deadline of not more than 7 days from receipt of the Charge Letter (unless otherwise agreed by the Agency) for the Covered Person to either:

(1) admit the Anti-Doping Rule Violation(s) charged and:

(i) accept the Consequences proposed by the Agency, in which case the Agency will issue a decision under Rule 3249(b);

(ii) seek to agree to mitigated Consequences with the Agency pursuant to Rule 3249, failing which the Consequences may still be disputed at a hearing; or

(iii) dispute or seek to mitigate the proposed Consequences at a hearing in accordance with Rule 3261 and the Arbitration Procedures; or

(2) deny the Anti-Doping Rule Violation charged and dispute the proposed Consequences at a hearing in accordance with Rule 3261 and Arbitration Procedures;

(e) indicate that, if the Covered Person does not challenge the Agency's assertion of an Anti-Doping Rule Violation or the proposed Consequences within the prescribed deadline, the Covered Person shall be deemed to have waived his or her right to a hearing, admitted the Anti-Doping Rule Violation(s) charged, and accepted the Consequences specified by the Agency in the Charge Letter (without any mitigation of those Consequences);

(f) give the opportunity to provide Substantial Assistance in accordance with Rule 3226(a); and

(g) provide all relevant details relating to any Provisional Suspensions (including, if applicable, the possibility to accept a voluntary Provisional Suspension) in accordance with Rule 3247.

Rule 3249. Case Resolution Without a Hearing

(a) At any time prior to a final decision under the Arbitration Procedures: (1) the Agency may withdraw a Charge Letter for good cause, in which case any Provisional Suspension will be automatically lifted and (absent the emergence of new information) no further steps will be taken in relation to the violations alleged in the Charge Letter; or (2) the Covered Person may agree to admit the Anti-Doping Rule Violation(s) charged (or any other violation of the Protocol) and accede to specified Consequences consistent with the Protocol. In any such case, an adjudication under the Arbitration Procedures will not be required.

(b) In the event that the Covered Person admits the Anti-Doping Rule Violation(s) charged and accedes to Consequences specified by the Agency (or is deemed to have done so in accordance with Rule 3248(a)(5)), the Agency will (1) promptly issue a final decision confirming the commission of the Anti-Doping Rule Violation(s) and setting out the factual basis for the decision and all of the Consequences to be imposed (including a brief summary of the reasons for any period of Ineligibility imposed, unless doing so could compromise an ongoing investigation or proceeding), and (2) send notice of the decision to each Interested Party. The Agency will also Publicly Disclose the decision (or a summary thereof, at the discretion of the Agency) in accordance with Rule 3620.

(c) In the event that the Agency withdraws the Charge Letter, it will (1) promptly issue a summary decision confirming the withdrawal of the Charge Letter, (2) send notice of the decision to the Covered Person concerned, with a copy to each Interested Party, and (3) Publicly Disclose the decision (or a summary thereof, at the discretion of the Agency) in accordance with Rule 3620.

Rule 3250. Notification Requirements

(a) Notification of Anti-Doping Rule Violations will take place as set out in Rule 3245 and Rule 3248. If at any point after an EAD Notice has been provided the Agency decides not to move forward with the charge, it will notify the Covered Person(s) concerned and each Interested Party of that decision.

(b) Notification to a Covered Person by the Agency, for all purposes of the Protocol, may be accomplished either through actual or constructive notice. Actual notice may be accomplished by any means. Constructive notice shall be deemed to have been given when the information in question is delivered by third-party courier or U.S. postal mail to the Covered Person's most recent mailing address on file with the Authority or by email or text message to the Covered Person's most recent email address or mobile telephone number on file with the Authority.

3260. Hearings and Review of Final Decisions

Rule 3261. Hearing Before the Arbitral Body

Where a Covered Person is alleged to have committed an Anti-Doping Rule Violation or to have violated Rule 3229, the Covered Person shall be entitled to a hearing before the Arbitral Body in accordance with the Arbitration Procedures. A copy of the final decision of the Arbitral Body shall be sent to the Covered Person(s) concerned, with a copy to the Agency and each Interested Party. The decision (or a summary thereof, at the discretion of the Agency) shall be Publicly Disclosed as provided in Rule 3620. If an individual case involves allegations that both an Anti-Doping Rule Violation and a Controlled Medication Rule Violation have been committed, the matter shall be referred to and adjudicated by the Arbitral Body in accordance with the Arbitration Procedures.

The Arbitral Body may also adjudicate any other matter referred to it under the Protocol, and any other matter that might arise from time to time under the Protocol that the Agency considers should be determined by the Arbitral Body.

Rule 3262. Expedited Hearing

In Anti-Doping Rule Violation cases where the Covered Horse or Covered Person in question is not Provisionally Suspended and is likely to participate in a Covered Horserace within 45 days, the Agency may (if it sees fit) address the case on an expedited basis and shorten any deadlines in the Protocol or Arbitration Procedures proportionately to ensure resolution of the matter prior to the Covered Horserace.

Rule 3263. Finality

Subject to Rule 3264, decisions rendered by the Arbitral Body under the Protocol shall be final and binding.

Rule 3264. Review of Final Decisions

Any final decision by the Agency or the Arbitral Body is subject to review in accordance with section 3058 of the Act. Any final decision under review shall remain in effect pending resolution of the review unless ordered otherwise.

3310. Controlled Medication Rule Violations

Rule 3311. Definition of Controlled Medication Rule Violation and Responsibility for Violations

(a) Controlled medication cases will be initiated based on the assertion that one or more of Rules 3312 through 3315 has been violated (each, a Controlled Medication Rule Violation).

(b) The Controlled Medication Rule Violations described below may only be committed by Covered Persons, but the Consequences for Controlled Medication Rule Violations may apply to both the Covered Person(s) who commit(s) the violation and any Covered Horse(s) implicated by the violation.

(c) All Covered Persons are responsible for knowing what constitutes a Controlled Medication Rule Violation and what Controlled Medication Substances and what Controlled Medication Methods are included on the Prohibited List and Technical Document–Prohibited Substances.

Rule 3312. Presence of a Controlled Medication Substance

(a) It is the personal and non-delegable duty of the Responsible Person to ensure that no Controlled Medication Substance is present in the Post-Race Sample of his or her Covered Horse(s), and that no Controlled Medication Substance specifically identified on the Prohibited List as prohibited during Timed and Reported Workouts is present in the Post-Work Sample of his or her Covered Horse(s). The Responsible Person is therefore strictly liable for any Controlled Medication Substance or its Metabolites or Markers found to be present in a Post-Race Sample collected from his or her Covered Horse(s), and for any specifically prohibited Controlled Medication Substance or its Metabolites or Markers found to be present in a Post-Work Sample collected from his or her Covered Horse(s). Accordingly, it is not necessary to demonstrate intent, Fault, negligence, or knowing Use on the part of the Responsible Person in order to establish that the Responsible Person has committed a Rule 3312 Controlled Medication Rule Violation.

(b) Sufficient proof of a Rule 3312 Controlled Medication Rule Violation is established by any of the following:

(1) the presence of a Controlled Medication Substance or its Metabolites or Markers in the Covered Horse's A Sample where the Responsible Person waives analysis of the B Sample and the B Sample is not analyzed;

(2) the Covered Horse's B Sample is analyzed and the analysis of the B Sample confirms the presence of the Controlled Medication Substance or its Metabolites or Markers found in the A Sample; or

(3) where, in exceptional circumstances, the Laboratory (on instruction from the Agency) further splits the A or B Sample into two parts in accordance with the Laboratory Standards, the analysis of the second part of the resulting split Sample confirms the presence of the same Controlled Medication Substance or its Metabolites or Markers as were found in the first part of the split Sample, or the Responsible Person waives analysis of the second part of the split Sample.

(c) The general rule is that the presence of any amount of a Controlled Medication Substance or its Metabolites or Markers in a Post-Race Sample or Post-Work Sample collected from a Covered Horse constitutes a Controlled Medication Rule Violation by the Responsible Person of that Covered Horse.

(d) As an exception to the general rule of Rule 3312(c), the Prohibited List, Standards, or Technical Documents may establish special criteria for the reporting or the evaluation of certain Controlled Medication Substances, including a Minimum Reporting Level, Screening Limit, Threshold, or Decision Limit.

(e) Nonsteroidal Anti-Inflammatory Drugs (NSAIDs) and corticosteroids, which are Controlled Medication Substances prohibited during Timed and Reported Workouts and during the Race Period, are subject to Screening Limits.

(1) If one NSAID or one corticosteroid is detected in the Post-Race Sample or Post-Work Sample of a Covered Horse above the applicable Screening Limit, it constitutes a presence violation under Rule 3312.

(2) If more than one NSAID or more than one corticosteroid is detected in the Post-Race Sample or Post-Work Sample of a Covered Horse, each NSAID and each corticosteroid above the applicable Screening Limit constitutes a separate presence violation of Rule 3312.

(3) If more than one NSAID or more than one corticosteroid is detected in the Post-Race Sample or Post-Work Sample of a Covered Horse, but each are below the applicable Screening Limits (and so individually would not constitute a presence violation), they will together constitute a single presence violation under Rule 3312 (Stacking Violation).

Rule 3313. Use or Attempted Use of a Controlled Medication Substance or a Controlled Medication Method During the Race Period

(a) Subject to Rule 3313(c), the Use or Attempted Use of a Controlled Medication Substance or Controlled Medication Method in relation to a Covered Horse during the Race Period constitutes a Controlled Medication Rule Violation. The success or failure of that Use or Attempted Use is not material. For a Rule 3313 violation to be committed, it is sufficient that the Controlled Medication Substance or Controlled Medication Method was Used or Attempted to be Used on a Covered Horse during the Race Period.

(b) It is the personal and non-delegable duty of the Responsible Person to ensure that no Controlled Medication Substance or Controlled Medication Method is Used in relation to his or her Covered Horse during the Race Period. The Responsible Person is therefore strictly liable for any Use of a Controlled Medication Substance or Controlled Medication Method in relation to his or her Covered Horse(s). Accordingly, it is not necessary to demonstrate intent, Fault, negligence, or knowing Use on the part of the Responsible Person in order to establish that the Responsible Person has committed a Rule 3313 Controlled

Medication Rule Violation of Use. However, in accordance with the definition of Attempt, it is necessary to show intent on the part of the Responsible Person in order to establish that the Responsible Person has committed a Rule 3313 Controlled Medication Rule Violation of Attempted Use.

(c) Use of a Controlled Medication Substance or a Controlled Medication Method outside the Race Period is not a Rule 3313 violation. However, if a Controlled Medication Substance or any of its Metabolites or Markers is still present in a Post-Race Sample or Post-Work Sample, that constitutes a Rule 3312 (presence) violation.

Rule 3314. Use of a Controlled Medication Substance or a Controlled Medication Method in a Manner Contrary to Horse Welfare

(a) Any Use of a Controlled Medication Substance or a Controlled Medication Method in relation to a Covered Horse must (1) be justified by the Covered Horse's health condition(s), (2) have been recommended by a Veterinarian in the context of a valid veterinarian-patient-client relationship or (if a prescription is not required) following sufficient due diligence regarding the substance or method, (3) go no further than the minimum necessary to address the health concerns, and (4) be in the best interests of the Covered Horse's health and welfare.

(b) It is the personal and non-delegable duty of the Responsible Person to ensure that no Controlled Medication Substance or Controlled Medication Method is Used on his or her Covered Horse in breach of the requirements set out in Rule 3314(a). The Responsible Person is therefore strictly liable for a violation of this Rule 3314. Accordingly, it is not necessary to demonstrate intent, Fault, negligence, or knowing Use on the part of the Responsible Person in order to establish that the Responsible Person has committed a Rule 3314 Controlled Medication Rule Violation.

Rule 3315. Other Controlled Medication Rule Violations Involving Controlled Medication Substances or Controlled Medication Methods

The following acts and omissions constitute Controlled Medication Rule Violations by the Covered Person(s) in question:

(a) The Administration or Attempted Administration of a Controlled Medication Substance or Controlled Medication Method by a Covered Person to a Covered Horse during the Race Period.

(b) The Possession of a Controlled Medication Substance or Controlled Medication Method by any Covered Person that is not in compliance with applicable State or Federal law.

(c) A Covered Person assisting, encouraging, aiding, abetting, conspiring, covering up, or engaging in any other type of intentional complicity or Attempted complicity involving (1) a Controlled Medication Rule Violation or Attempted Controlled Medication Rule Violation, or (2) a violation of Rule 3329 by another Covered Person.

Rule 3316. Tampering or Attempted Tampering With Medication Control

If the Agency establishes that a Covered Person committed a violation of Tampering or Attempted Tampering in connection with a Medication Control process, that will constitute an Anti-Doping Rule Violation under Rule 3216(a), and the matter will be dealt with in accordance with the procedures and Consequences applicable to Anti-Doping Rule Violations.

3320. Sanctions

Rule 3321. Disqualification of the Covered Horse's Results

(a) Automatic Disqualification of results.

(1) A Controlled Medication Rule Violation that arises from a Post-Race Sample, or that occurs during the Race Period, automatically leads to Disqualification of the results of the Covered Horse obtained on the Race Day(s) that fall(s) within the Race Period, even if any other sanction for the violation is eliminated or reduced under Rules 3324, 3325, or 3326.

(2) In circumstances where an ECM Notice has been sent as required under Rule 3345, and the B Sample analysis confirms the A Sample analysis, or the right to request the analysis of the B Sample is waived, the Agency, the Responsible Person, and the Owner of the Covered Horse in question may agree to apply Rule 3321 immediately, *i.e.,* prior to adjudication of any other issue, or (in the absence of such agreement) any one of them may request that the Internal Adjudication Panel apply Rule 3321 immediately.

(b) No Disqualification of subsequent results.

Subsequent results obtained by the Covered Horse from the date a Controlled Medication Rule Violation first occurred through the commencement of any Provisional Suspension or Ineligibility period for the Covered Horse shall not be Disqualified.

(c) Consequence of Disqualification of results.

(1) If a Covered Horse has results Disqualified under the Protocol, all purses and other compensation, prizes, trophies, points, and rankings are forfeited and must be repaid or surrendered (as applicable) to the Race Organizer, and the results of the other Covered Horses in the race(s) in question must be adjusted accordingly and the purses, prizes, and trophies redistributed. Purses, prizes, trophies, and other compensation shall (where possible) be withheld for the Covered Horse in issue pending resolution of the relevant charge.

(2) The Covered Horses that participated in a Covered Horserace involving an alleged Controlled Medication Rule Violation are often entered in other Covered Horseraces prior to the final adjudication of the violation. The ultimate Disqualification of a Covered Horse in connection with final adjudication of a violation shall only impact that horse's conditions for eligibility. By way of example, a maiden that is Disqualified after finishing first in a maiden race shall remain a maiden until it has won another race, but the runner-up in the disputed Covered Horserace shall not be considered the winner for purposes of its future condition eligibility. The adjustment to the Disqualified horse's condition eligibility shall only occur once the violation has been finally adjudicated.

Rule 3322. Ineligibility for Covered Horses

(a) There shall be no period of Ineligibility for Covered Horses implicated in violations involving only Controlled Medication Substances.

(b) There may be a period of Ineligibility for Covered Horses implicated in violations involving Controlled Medication Methods. Where the Prohibited List specifies a period of Ineligibility, it shall be applied only prospectively (*i.e.,* going forward from the date that it is imposed), with no Disqualification of any results obtained by the Covered Horse before the date that the period of Ineligibility starts to run, other than as provided under Rule 3321(a)(1).

Rule 3323. Ineligibility and Financial Penalties for Covered Persons

(a) General.

(1) The periods of Ineligibility and financial penalties set out in this Rule 3323 apply to any Controlled Medication Rule Violation committed by a Covered Person. However:

(i) When determining if a Covered Person has committed multiple

violations, the following prior Controlled Medication Rule Violations shall be disregarded: (A) violations that occurred more than 2 years prior to the violation now being sanctioned; and (B) violations for which the Covered Person was found to bear No Fault or Negligence.

(ii) A Controlled Medication Rule Violation will be considered a second or subsequent violation only if the Covered Person committed an offense in the same category/class in the previous 2 years. Violations in different categories will be taken into account when assigning penalty points under Rule 3328.

(iii) Unless specified otherwise, the periods of Ineligibility set out in this Rule 3323 are subject to potential elimination, reduction, or suspension pursuant to Rules 3324–3326, or increase pursuant to Rule 3327.

(2) In accordance with Rule 3347(j), any period of Provisional Suspension served by the Covered Person shall be credited against the period of Ineligibility ultimately imposed on that Covered Person for the violation in question.

(3) If a presence violation involves a Controlled Medication Substance that has not been assigned a Class A–C, the Agency shall determine the class of the substance. Any supplements or feed additives used in contravention of Rule 4211(a) of the Prohibited List that have not been assigned a class shall be designated as Class C substances, unless the Agency decides otherwise.

(4) If two or more Controlled Medication Rule Violations in the same category/class are adjudicated separately, the first violation adjudicated shall constitute the ''first violation'' for sanctioning purposes, the second violation adjudicated shall constitute the ''second violation,'' and so on, regardless of the chronological order in which those violations occurred.

(b) Consequences.

Subject to Rule 3323(a), and in addition to any other Consequences that apply under the Protocol, the periods of Ineligibility, fines, and Disqualification of results specified below shall apply to any Covered Person who commits multiple Controlled Medication Rule Violations. The Covered Person may also be required to pay some or all of the adjudication costs and the Agency's legal costs.

Controlled medication rule violation	First violation (within 2-year period)	Second violation (within 2-year period)	Third or subsequent violation (within 2-year period)
Presence, Use or Attempted Use, or Administration or Attempted Administration of a Controlled Medication Substance (Rules 3312, 3313, and 3315(a)):			
Class A	60 days Fine of up to $5,000 or 5% of the total purse (whichever is greater). Automatic Disqualification of Race Day results (Rule 3321).	90 days Fine of up to $10,000 or 10% of the total purse (whichever is greater). Automatic Disqualification of Race Day results (Rule 3321).	120 days. Fine of up to $25,000 or 25% of the total purse (whichever is greater). Automatic Disqualification of Race Day results (Rule 3321).
Class B	15 days Fine up to $1,000 Automatic Disqualification of Race Day results (Rule 3321).	30 days Fine up to $2,500 Automatic Disqualification of Race Day results (Rule 3321).	60 days. Fine up to $5,000. Automatic Disqualification of Race Day results (Rule 3321).
Class C	 Fine up to $500 Automatic Disqualification of Race Day results (Rule 3321).	15 days Fine up to $1,000 Automatic Disqualification of Race Day results (Rule 3321).	30 days. Fine up to $2,500. Automatic Disqualification of Race Day results (Rule 3321).
Note: Sanctions apply for each Controlled Medication Substance detected in the Sample. A Stacking Violation shall be treated as a single violation for the purposes of sanctions.			
Use or Attempted Use or Administration or Attempted Administration of a Controlled Medication Method (Rule 3313).	60 days Fine of up to $5,000 or 5% of the total purse (whichever is greater). Automatic Disqualification of Race Day results (Rule 3321).	90 days Fine of up to $10,000 or 10% of the total purse (whichever is greater). Automatic Disqualification of Race Day results (Rule 3321).	120 days. Fine of up to $25,000 or 25% of the total purse (whichever is greater). Automatic Disqualification of Race Day results (Rule 3321).
Use of a Controlled Medication Substance or a Controlled Medication Method in a manner contrary to horse welfare (Rule 3314).	60 days Fine of up to $5,000 or 5% of the total purse (whichever is greater).	90 days Fine of up to $10,000 or 10% of the total purse (whichever is greater).	120 days. Fine of up to $25,000 or 25% of the total purse (whichever is greater).
Possession of a Controlled Medication Substance/Method that is not in compliance with applicable State or Federal law (Rule 3315(b)).	 Fine up to $500. Referral to the relevant State or Federal authority.	15 days Fine up to $1,000 Referral to the relevant State or Federal authority.	30 days. Fine up to $2,500. Referral to the relevant State or Federal authority.
Complicity or Attempted complicity (Rule 3315(c)).	Same Consequences that apply to the principal actor, absent mitigating or aggravating circumstances.	Same Consequences that apply to the principal actor, absent mitigating or aggravating circumstances.	Same Consequences that apply to the principal actor, absent mitigating or aggravating circumstances.

(c) Commencement of the period of Ineligibility for a Covered Person.

(1) Except as otherwise provided in this Rule 3323, the period of Ineligibility imposed on any Covered Person shall start on the date the period

of Ineligibility is accepted or otherwise imposed in accordance with the Protocol.

(2) Where a Covered Person is already serving a period of Ineligibility for another violation of the Protocol, any new period of Ineligibility shall start to run the day after the original period of Ineligibility ends.

(3) Where there have been substantial delays in the adjudication process or other aspects of Medication Control that go well beyond the standard timeframes for Laboratory analyses and Results Management, and the Covered Person can establish that such delays are not attributable to him or her, the start date of the period of Ineligibility may be deemed back-dated to reflect such delays, but in no event may it be deemed back-dated to a date before the Controlled Medication Rule Violation last occurred.

(d) Additional rules for certain multiple violations.

(1) Multiple violations for the same Controlled Medication Substance/Method incurred by a Covered Person in relation to the same Covered Horse prior to delivery of an ECM Notice may (at the Agency's discretion) be treated together as a single Controlled Medication Rule Violation, unless the facts demonstrate that there was more than one administration. Multiple violations for the same Controlled Medication Substance/Method incurred by a Covered Person in relation to different Covered Horses prior to delivery of an ECM Notice may each be treated as a first Controlled Medication Rule Violation within the relevant category/class. Where multiple Controlled Medication Substances are detected in a single Post-Race Sample or Post-Work Sample, each Controlled Medication Substance may be treated as a separate violation and assigned separate penalty points.

(2) If the Agency establishes that prior to receiving an ECM Notice in respect of one Controlled Medication Rule Violation the Covered Person committed an additional Controlled Medication Rule Violation that occurred 12 months or more before or after the violation asserted in that ECM Notice, the period of Ineligibility for the additional violation shall be calculated as if the additional violation were a stand-alone first violation, and that period of Ineligibility will run consecutively to (rather than concurrently with) the period of Ineligibility imposed for the first-notified violation. Where this Rule applies, the violations taken together will constitute a single violation for purposes of Rule 3323(b).

(3) If the Agency establishes that the Covered Person has committed a further violation of the Protocol during a period of Ineligibility, any new period of Ineligibility shall start to run the day after the original period of Ineligibility ends.

(e) Violations involving both a Banned Substance or Method and a Controlled Medication Substance or Method.

Where a Covered Person is found, based on a common set of facts, to have committed a (1) violation involving one or more Banned Substance(s) or Banned Method(s), and (2) a violation involving one or more Controlled Medication Substance(s) or Controlled Medication Method(s), they shall be treated as separate violations, but shall be adjudicated together in consolidated proceedings pursuant to the procedure that applies to Anti-Doping Rule Violations under the Arbitration Procedures.

Rule 3324. Elimination of the Period of Ineligibility Where There Is No Fault or Negligence

(a) If a Covered Person establishes in an individual case that he or she bears No Fault or Negligence for the Controlled Medication Rule Violation(s) charged, the otherwise applicable period of Ineligibility and other Consequences for such Covered Person shall be eliminated (except for those set out in Rule 3321 and Rule 3620). When the violation is of Rule 3312 (presence of a Controlled Medication Substance), the Covered Person must also establish how the Controlled Medication Substance entered the Covered Horse's system as a pre-condition to application of this Rule 3324. In the event the period of Ineligibility otherwise applicable is eliminated pursuant to this Rule 3324, the Controlled Medication Rule Violation shall not be considered a prior violation for the purpose of Rule 3323(b).

(b) Rule 3324 only applies in exceptional circumstances. In particular, it will not apply where the Controlled Medication Substance found to be present in a Sample: (1) came from a mislabeled or contaminated supplement; or (2) was administered to the Covered Horse by veterinary or other support personnel without the knowledge of the Responsible Person.

(c) A finding that the Covered Person bears No Fault or Negligence for a Controlled Medication Rule Violation shall not affect the Consequences of that violation that apply to the Covered Horse (*i.e.,* Ineligibility in accordance with Rule 3322(b) and Disqualification of results in accordance with Rule 3321).

Rule 3325. Reduction of the Period of Ineligibility Where There Is No Significant Fault or Negligence (Limited to Class A/B or Equivalent)

This Rule applies only to Controlled Medication Rule Violations involving Class A or Class B substances or a category of violation with sanctions equivalent to Class A or Class B substances. Reductions under this Rule 3325 are mutually exclusive and not cumulative, *i.e.,* no more than one of them may be applied in a particular case.

(a) General rule.

Where the Covered Person establishes that he or she bears No Significant Fault or Negligence for the Controlled Medication Rule Violation in question, then (unless Rule 3325(b) or 3325(c) applies) the period of Ineligibility may be reduced, depending on the Covered Person's degree of Fault, but the reduced period of Ineligibility may not be less than one-half of the otherwise applicable period of Ineligibility.

(b) Specified Substances.

Where the Covered Person establishes that he or she bears No Significant Fault or Negligence for the Controlled Medication Rule Violation in question, and the violation involves only a Specified Substance, the period of Ineligibility shall be, at a minimum, a reprimand and no period of Ineligibility, and, at a maximum, the otherwise applicable period of Ineligibility, depending on the Covered Person's degree of Fault.

(c) Contaminated Products or other contamination.

Where the Covered Person establishes that he or she bears No Significant Fault or Negligence for the Controlled Medication Rule Violation in question and that the Controlled Medication Substance in question came from a Contaminated Product or from another form of contamination, the period of Ineligibility shall be, at a minimum, a reprimand and no period of Ineligibility, and, at a maximum, the otherwise applicable period of Ineligibility, depending on the Covered Person's degree of Fault.

Rule 3326. Elimination, Reduction, or Suspension of Period of Ineligibility or Other Consequences for Reasons Unrelated to Degree of Fault

(a) Substantial Assistance. The Agency may suspend all or part of the Consequences imposed on a Covered Person in an individual Controlled Medication Rule Violation case—other

than Disqualification of results pursuant to Rule 3321—based on the following:

(1) The Covered Person provides Substantial Assistance to the Agency, the Authority, or a State Racing Commission, a criminal authority, or a professional disciplinary body that results in:

(i) the Agency discovering or bringing forward an Anti-Doping Rule Violation or a Controlled Medication Rule Violation by another Covered Person; or

(ii) a criminal or disciplinary body discovering or bringing forward a sport-related criminal offense or the breach of professional or sports rules by another Person, including offenses arising out of a sport integrity violation or sport safety violation, or the violation of any rule or requirement in the Act, and the information provided by the Covered Person providing Substantial Assistance is also made available to the Agency.

(2) The extent to which the otherwise applicable period of Ineligibility may be suspended shall be based on the seriousness of the Controlled Medication Rule Violation committed by the Covered Person and the degree to which the Substantial Assistance provided by the Covered Person assists the effort to promote doping-free racing, compliance with the Protocol, or the integrity of racing. In any event, no more than three-quarters of the otherwise applicable period of Ineligibility may be suspended. For purposes of this Rule 3326, the otherwise applicable period of Ineligibility shall not include any period of Ineligibility that could be added under Rule 3323(d)(2).

(3) If so requested, the Agency shall allow the Covered Person who seeks to provide Substantial Assistance to provide the information to the Agency subject to a Without Prejudice Agreement.

(4) If the Covered Person fails to continue to cooperate or fails to provide the complete, accurate, and credible Substantial Assistance promised, the Agency shall reinstate the original Consequences. That decision is not subject to review.

(b) Voluntary Admission of a Controlled Medication Rule Violation in the absence of other evidence. If (1) the Covered Person voluntarily admits the commission of a Controlled Medication Rule Violation before receiving the ECM Notice or (in the case of a Rule 3312 violation) before having received notice of a Sample collection that could establish the Controlled Medication Rule Violation, and (2) that admission is the only reliable evidence of the violation at the time the admission is made, the otherwise applicable period of Ineligibility may be reduced by up to one-half.

(c) Application of multiple grounds for reduction of a sanction. If the Covered Person establishes entitlement to a reduction or suspension of the period of Ineligibility under 2 or more of Rules 3324, 3325, or 3326, the otherwise applicable period of Ineligibility shall be determined in accordance with Rules 3323, 3324, and 3325 before applying any reduction or suspension under Rule 3326. If the Covered Person establishes entitlement to a reduction or suspension of the period of Ineligibility under Rule 3326, up to three-quarters of the otherwise applicable period of Ineligibility may be reduced or suspended.

(d) Reductions for certain Controlled Medication Rule Violations based on early admission and acceptance of sanction. If the Covered Person admits the violation and accepts the asserted period of Ineligibility no more than 7 days after receiving the Charge Letter, the period of Ineligibility to be served will be automatically reduced by one-half (but no further reduction shall be allowed under any other Rule).

Rule 3327. Aggravating Circumstances

(a) If the Agency establishes in an individual Controlled Medication Rule Violation case that Aggravating Circumstances are present, the period of Ineligibility otherwise applicable shall be increased by up to 6 months depending on the seriousness of the Aggravating Circumstances, unless the Covered Person establishes that he or she did not knowingly commit the Controlled Medication Rule Violation. Where the period of Ineligibility is increased pursuant to this Rule, an additional fine of up to $5,000 or an additional 5% of the total purse (whichever is greater) may also be imposed.

(b) Actions and circumstances constituting Aggravating Circumstances include:

(1) Administration of a Controlled Medication Substance or Use of a Controlled Medication Method that is detrimental to the health and welfare of the horse or is designed to deceive the betting public;

(2) prior violations under the Protocol; or

(3) the Covered Person engaged in deceptive or obstructive conduct to avoid the detection or adjudication of a Controlled Medication Rule Violation, for which the Covered Person has not been separately sanctioned for Tampering.

(c) For the avoidance of doubt, the examples set out in Rule 3327(b) are not exhaustive and other similar circumstances or conduct may also be deemed to amount to Aggravating Circumstances that justify the imposition of a longer period of Ineligibility.

Rule 3328. Penalty Points System for Multiple Controlled Medication Rule Violations

(a) The penalty points system established in this Rule 3328 does not replace or lessen in any way the Consequences that apply to the underlying Controlled Medication Rule Violation. Rather, the penalty points system is intended to apply additional uniform Consequences where the Covered Person is a repeat offender and exceeds the permissible number of points.

(b) Covered Persons shall be assigned penalty points as set out in the table below for each Controlled Medication Rule Violation that they commit. The imposition of the specified penalty points is automatic, without any consideration of mitigating or aggravating circumstances, except that:

(1) no points shall be assigned for any violations (i) where the Covered Person was found to bear No Fault or Negligence, or (ii) resulting from environmental contamination;

(2) fewer or no points may be assigned where the Covered Person provides Substantial Assistance in accordance with Rule 3326; and

(3) the penalty points for a complicity or Attempted complicity violation may be adjusted if there are mitigating or aggravating circumstances.

Controlled medication rule violation	Penalty points
Presence, Use or Attempted Use, or Administration or Attempted Administration of a Controlled Medication Substance:	
Class A	3.
Class B	2.
Class C	1½.

Controlled medication rule violation	Penalty points
Note: Points are assigned for each Controlled Medication Substance detected in the Sample. A Stacking Violation shall be treated as a single violation.	
Use of a Controlled Medication Substance or a Controlled Medication Method in a manner contrary to horse welfare.	3.
Use or Attempted Use or Administration or Attempted Administration of a Controlled Medication Method.	3.
Possession of a Controlled Medication Substance or Controlled Medication Method that is not in compliance with applicable State or Federal law.	1.
Complicity or Attempted complicity in a Controlled Medication Rule Violation committed by another Person.	Same number of points that apply to the Responsible Person, absent mitigating or aggravating circumstances.
Violation of Rule 3329	Same number of points as were assigned for the underlying violation.

(c) In addition to the Consequences applicable to the underlying Controlled Medication Rule Violation, the following Consequences shall be imposed based on the cumulative points contained in the Covered Person's official record:

Cumulative penalty points	Additional period of ineligibility (days)
6–7	30
7.5–9	60
9.5–12	90
12.5 or more	180

(d) Penalty points and the additional period of Ineligibility shall be applied automatically at the conclusion of the proceeding on the underlying violation, without any additional hearing or right of review. Penalty points shall be applied retroactively to start on the date on which the Controlled Medication Rule Violation occurred and shall expire after 2 years.

(e) The additional period of Ineligibility imposed based on penalty points shall run consecutive to any period of Ineligibility imposed for the underlying Controlled Medication Rule Violation.

(f) A Covered Person's official record of cumulative penalty points shall be maintained by the Agency.

Rule 3329. Status During Provisional Suspension or Ineligibility

(a) While serving a Provisional Suspension or period of Ineligibility for a Controlled Medication Rule Violation:

(1) a Covered Horse may not participate in any Timed and Reported Workout or Covered Horserace, but shall remain subject to Testing;

(2) a Covered Person may not participate in any capacity in any activity involving Covered Horses, or in any other activity (other than authorized anti-doping education or rehabilitation programs) taking place at a Racetrack or Training Facility, nor shall he or she permit anyone to participate in any capacity on his or her behalf in any such activities, except to the extent that the Covered Person is an Owner and the activity is necessary to ensure the safekeeping and wellbeing of the horse during the period of such Owner's Provisional Suspension or Ineligibility.

(b) The Covered Horse(s) of an Owner or Trainer who is subject to a Provisional Suspension or period of Ineligibility shall be subject to the following restrictions:

(1) The Covered Horse(s) of a Trainer who is subject to a Provisional Suspension or period of Ineligibility may not participate in any Timed and Reported Workout or Covered Horserace unless and until they have been transferred to another Covered Person, except that such Covered Horses may participate in a Covered Horserace if they were entered in the race before the Trainer was notified of the Provisional Suspension or the period of Ineligibility was imposed or accepted (whichever is earlier). For the ''transfer'' to be valid, (i) the transfer must be registered with the Authority in accordance with its procedures, and (ii) if the Trainer is subject to a period of Ineligibility of more than 30 days, the Covered Horses must also be physically relocated to facilities under the care or control of a Covered Person who is not affiliated with the suspended Trainer (and failure to comply may constitute an Anti-Doping Rule Violation under Rule 3216(c), *i.e.,* Prohibited Association).

(2) The Covered Horse(s) of an Owner who is subject to a Provisional Suspension or period of Ineligibility may not participate in any Timed and Reported Workout or Covered Horserace unless and until they have been transferred in a bona fide transaction to a different Owner. If an Immediate Family Member has any ownership or property interest in the Covered Horse(s) following such transfer, the transfer shall not constitute a bona fide transaction to a different Owner.

Rule 3330. Consequences for Violation of the Prohibition on Participation During Ineligibility or Provisional Suspension Under Rule 3329

(a) Consequences for violation of the prohibition on participation during Ineligibility.

(1) If a Covered Person violates the prohibition against participation during Ineligibility described in Rule 3329, any results obtained from such participation shall be Disqualified and a new period of Ineligibility equal in length to the original period of Ineligibility shall be added to the end of the Covered Person's original period of Ineligibility.

(2) If a Covered Horse participates in any Timed and Reported Workout or Covered Horserace in violation of the prohibition against participation during Ineligibility described in Rule 3329, any results obtained from such participation shall be Disqualified, and the Responsible Person for that Covered Horse shall receive the following period of Ineligibility:

(i) if the Responsible Person was subject to an original period of Ineligibility, a new period of Ineligibility equal in length to the original period of Ineligibility shall be added to the end of the original period of Ineligibility. If the original period of Ineligibility has already expired, the new period of Ineligibility shall start on the date that it is accepted or imposed; or

(ii) if the Responsible Person was not subject to an original period of Ineligibility, the period of Ineligibility for violating Rule 3329 shall be from a reprimand to 1 year, depending on the Covered Person's degree of Fault.

(b) Consequences for violation of the prohibition on participation during Provisional Suspension.

(1) A Covered Person who violates the prohibition against participation during a Provisional Suspension shall receive no credit for any period of Provisional

Suspension served and the results of such participation shall be Disqualified.

(2) If a Covered Horse participates in any Timed and Reported Workout or Covered Horserace in violation of the prohibition against participation during a Provisional Suspension described in Rule 3329, the Responsible Person for that Covered Horse and the Covered Horse shall receive no credit for any period of Provisional Suspension served and the results of such participation shall be Disqualified.

(c) The consequence of Disqualification under this Rule 3330 shall be the same as set out in Rule 3321(c).

(d) The Internal Adjudication Panel (or the Agency, if the Covered Person admits the violation and accepts the consequences) shall determine whether there has been a violation of the prohibition against participation during Provisional Suspension or Ineligibility and apply the appropriate consequences pursuant to Rule 3361.

Rule 3331. Automatic Public Disclosure

A mandatory part of each sanction shall include automatic Public Disclosure in accordance with Rule 3620.

Rule 3332. Conditions Precedent to Reinstatement for Covered Persons

(a) To be reinstated after commission of a Controlled Medication Rule Violation, the Covered Person must have respected his or her period of Ineligibility (Rule 3329); and repaid or surrendered any purses and other compensation, prizes, trophies, points, and rankings forfeited pursuant to Rule 3321, and paid any fines and reimbursed any costs imposed or accepted to the Agency, unless an installment plan was established pursuant to Rule 3332(b), in which case the Covered Person must have made all payments due under that plan. If any installment(s) subsequently become(s) overdue under that plan (*i.e.,* after reinstatement), the Covered Person and the Covered Horses under his or her ownership or training may not participate in any Timed and Reported Workout or Covered Horserace until such overdue installment(s) is/are paid in full.

(b) Where fairness requires, the Agency or the Internal Adjudication Panel may establish an installment plan for repayment of amounts due to be paid or reimbursed under the Protocol. The payment schedule may extend beyond any period of Ineligibility imposed upon the Covered Person.

Rule 3333. Conditions Precedent to Reinstatement for Covered Horses

(a) A Covered Horse shall be reinstated once its period of Ineligibility ends, provided that (1) the Ineligibility has been respected in full throughout that period in accordance with Rule 3329, (2) the Covered Horse has been made available for Testing during that period in accordance with Rule 3132(d), and (3) the Covered Horse has completed any Vets' List Workout(s) required by the Racetrack Safety Program or the Agency (for the avoidance of doubt, such workouts may be scheduled prior to the expiry of the period of Ineligibility and will not constitute a violation of Rule 3329).

(b) Any reinstatement pursuant to this Rule 3333 is without prejudice to any rest or stand down period that may be imposed on the Covered Horse (*e.g.,* due to injuries), and any requirements for release from the Veterinarians' List, pursuant to the Racetrack Safety Program.

3340. Results Management

Rule 3341. General

Where there is evidence of a potential Controlled Medication Rule Violation(s), the Agency will conduct Results Management in accordance with this section 3340 and the Testing and Investigations Standards.

Rule 3342. Review of Adverse Analytical Findings

(a) Upon receipt of an Adverse Analytical Finding in relation to an A Sample, the Agency will conduct a review of the Laboratory certificate of analysis supporting the Adverse Analytical Finding and the relevant Sample collection documentation and Testing documents to determine whether the Adverse Analytical Finding was caused by any apparent departure from the Testing and Investigations Standards, the Laboratory Standards, or any provision of the Protocol. Subject to Rule 3342(b), the Agency may, but does not have to, communicate with the Responsible Person and Owner during such review.

(b) If the review under Rule 3342(a) reveals an apparent departure that caused the Adverse Analytical Finding, the entire test shall be considered negative, and the Agency shall promptly inform the Responsible Person and each Interested Party of that fact.

(c) If the initial review of an Adverse Analytical Finding under Rule 3342(a) does not reveal an apparent departure that caused the Adverse Analytical Finding, the Agency shall promptly send an ECM Notice to the Responsible Person and each Interested Party in accordance with Rule 3345.

Rule 3343. Review of Atypical Findings Relating to Controlled Medication Substances

(a) In certain circumstances, Laboratories may report the presence of certain Controlled Medication Substances as ''Atypical Findings'' in accordance with the Atypical Findings Policy set out at Appendix 1. Upon receipt of an A Sample Atypical Finding, the Agency will conduct a review to determine whether the Atypical Finding was caused by a departure from the Testing and Investigations Standards, the Laboratory Standards, or any provision of the Protocol. If that review does not reveal any departure that caused the Atypical Finding, the Agency will conduct an investigation (including directing any Further Analysis) or take any other steps required to decide whether the Atypical Finding should be brought forward as an Adverse Analytical Finding, in accordance with the Atypical Findings Policy.

(b) The Agency may, but does not have to, provide notice of an Atypical Finding to anyone until it has made that decision unless one of the following circumstances exists:

(1) if the Agency determines that the B Sample should be analyzed prior to the conclusion of its investigation, the Agency may conduct the B Sample analysis after notifying the Responsible Person and the Owner, with such notice to include a description of the Atypical Finding and the information described in Rule 3345; or

(2) if the Atypical Finding is likely connected to a serious pathology that requires urgent veterinary attention.

(c) If the Agency ultimately decides not to pursue the Atypical Finding as an Adverse Analytical Finding, the Agency may, but does not have to, communicate that fact to the Responsible Person and Owner unless he or she has previously received notice of the Analytical Finding pursuant to Rule 3343(b).

(d) If the Agency decides to move forward with the matter as an Adverse Analytical Finding, the Agency shall promptly send an ECM Notice to the Responsible Person and each Interested Party.

Rule 3344. Review of Other Evidence of a Potential Controlled Medication Rule Violation

The Agency shall conduct any follow-up investigation required into any potential Controlled Medication Rule Violation not covered by Rules 3342 or 3343. At such time as the Agency is

satisfied that it has sufficient evidence to establish that a Controlled Medication Rule Violation occurred, it shall promptly send an ECM Notice to the relevant Covered Person and each Interested Party.

Rule 3345. ECM Notice

(a) Where it is determined that a Covered Person may have committed one or more Controlled Medication Rule Violations, the Agency will promptly notify the Covered Person and each Interested Party in writing of the following (the ECM Notice):

(1) the alleged Controlled Medication Rule Violation and the Consequences if it is agreed or determined to have been committed;

(2) the Adverse Analytical Finding (with a copy of the Laboratory certificate of analysis in a form designated by the Agency) or a brief summary of the facts relied on by the Agency to assert the alleged violation (including, where applicable, the name of the Covered Horse implicated in the alleged violation, whether the alleged violation was in connection with a particular Covered Horserace, and the date of Sample collection or of the other relevant facts said to give rise to the violation);

(3) if applicable, the right of the Responsible Person and the Owner to receive copies of the A Sample Laboratory Documentation Package after the B Sample analysis has been completed or after such analysis is waived;

(4) if applicable, the following details regarding the B Sample analysis:

(i) that the B Sample has been (or will be) analyzed because the Agency has authorized immediate analysis to preserve the scientific integrity of the Sample;

(ii) if the B Sample has not been analyzed, the Responsible Person's and Owner's right to promptly request the analysis of the B Sample within no more than 5 days or (failing such request) that the B sample analysis shall be deemed to be waived;

(iii) an explanation that where the Responsible Person or Owner requests the B Sample analysis within the applicable deadline, or where the Agency decides to proceed with the B Sample analysis, the Agency will notify the Responsible Person and Owner of the date, time, and place where the B Sample will be analyzed and (where the analysis is requested by the Responsible Person or Owner) the amount that the Responsible Person or Owner must pay to have the B Sample tested and B Sample Laboratory Documentation Package prepared, and the date by which such payment must be received, failing which the B Sample analysis shall be deemed to have been waived; and

(5) the opportunity for the Covered Person to provide an explanation within a short deadline set by the Agency;

(6) the opportunity to provide Substantial Assistance, to admit the Anti-Doping Rule Violation, or to seek to resolve the matter without a hearing under Rule 3349;

(7) all relevant details relating to any Provisional Suspension (including, if applicable, the possibility to accept a voluntary Provisional Suspension) in accordance with Rule 3347; and

(8) if applicable, the ability for the automatic Disqualification of results to be applied immediately in accordance with Rule 3321(a)(2).

(b) Before sending an ECM Notice, for purposes of Rule 3323, the Agency shall seek to determine whether the Covered Person in question has committed any prior violations under the Protocol.

(c) Any defect in the ECM Notice (including a failure to identify the Covered Horseraces implicated in the alleged violation, if any) may be corrected by the Agency and shall not in any event invalidate the ECM Notice or affect the due application of the provisions of the Protocol (including the Disqualification provisions) in relation to that violation.

Rule 3346. B Sample Analysis

(a) Arrangements shall be made for analysis of the B Sample without undue delay, in accordance with the Protocol and the Laboratory Standards. Subject to Rule 3346(b), the Responsible Person or Owner must pay the costs of the B Sample analysis in advance, but, if the B Sample analysis does not confirm the A Sample analysis, they will be reimbursed that cost by the Agency. The Responsible Person and Owner and one representative each may attend the Laboratory to witness the opening and identification of the B Sample. They do not have any right to witness the analysis of the B Sample.

(b) The Responsible Person and Owner may (if they both agree) waive analysis of the B Sample (in which case they shall be deemed to accept the A Sample analytical results). If waived, the Agency may nonetheless elect to proceed with the B Sample analysis at its own expense.

(c) If the B Sample proves negative, the entire Test shall be considered negative, and the Responsible Person and Owner shall be so informed. In such circumstances, unless the Agency asserts a Controlled Medication Rule Violation under Rules 3313 or 3314 (Use), the ECM Notice will be withdrawn, any Provisional Suspensions imposed shall be deemed automatically vacated with immediate effect (without the need for any order from the Internal Adjudication Panel), and no further disciplinary action will be taken against the Responsible Person, other Covered Person, or Covered Horse by the Agency in relation to the original Adverse Analytical Finding (provided, however, that the Agency may investigate why the B Sample did not match the A Sample). If the Agency asserts that a Rule 3313 or 3314 (Use) violation has occurred, it shall send a Charge Letter to the Responsible Person and other Covered Person(s), with a copy to each Interested Party.

(d) If the presence of a Controlled Medication Substance or the Use of a Controlled Medication Method is confirmed by the B Sample analysis, or the B Sample analysis is waived, the Agency shall send a Charge Letter to the Responsible Person and any other relevant Covered Person(s), with a copy to each Interested Party, asserting that a Rule 3312 (presence) violation or a Rule 3313 (Use) violation (as applicable) has occurred.

Rule 3347. Provisional Suspensions

(a) The Agency shall not impose a Provisional Suspension on a Covered Horse for a Controlled Medication Rule Violation, unless the violation involves a Controlled Medication Method for which the Prohibited List specifies a period of Ineligibility.

(b) The Agency may impose a Provisional Suspension on a Covered Person for a Controlled Medication Rule Violation where it considers it appropriate to do so in the circumstances of the case, including where (1) the Covered Person admits the Controlled Medication Rule Violation and is likely to be subject to a period of Ineligibility, (2) there is an Adverse Analytical Finding for more than one Controlled Medication Substance and those substances are not Specified Substances, (3) the Covered Person has a pending Anti-Doping Rule Violation or Controlled Medication Rule Violation or prior violation that is likely to result in an increased period of Ineligibility, or (4) the individual represents a threat to the health, safety, or welfare of horses or the integrity of the sport of horseracing.

(c) Where a Provisional Suspension is imposed pursuant to Rule 3347(a) or (b), the Responsible Person (on his or her own behalf and on behalf of the Covered Horse) and any other Covered Person made subject to the Provisional Suspension shall be given:

(1) an opportunity for a Provisional Hearing before imposition of the Provisional Suspension;

(2) an opportunity for a Provisional Hearing on a timely basis after imposition of the Provisional Suspension; or

(3) an opportunity for an expedited final adjudication in accordance with Rule 3362 on a timely basis after imposition of the Provisional Suspension.

(d) Provisional Hearings shall be conducted by the Internal Adjudication Panel and heard via telephone or video conference call within the time frame specified in accordance with the Arbitration Procedures, except where the Internal Adjudication Panel decides to determine the matter based solely on the written submissions without a hearing. The sole issue to be determined by the Internal Adjudication Panel will be whether the Agency's decision to impose a Provisional Suspension shall be maintained. The Agency's decision to impose a Provisional Suspension shall be maintained unless the Responsible Person/Covered Person requesting the lifting of the Provisional Suspension establishes that:

(1) the allegation that a Controlled Medication Rule Violation has been committed has no reasonable prospect of being upheld, *e.g.,* because of a material defect in the evidence on which the allegation is based;

(2) the Responsible Person/Covered Person charged bears No Fault or Negligence for the Controlled Medication Rule Violation that is alleged to have been committed, so that any period of Ineligibility that might otherwise be imposed for such offense would be completely eliminated by application of Rule 3324. (This ground does not apply in respect of any Provisional Suspension imposed on a Covered Horse);

(3) Rule 3325 applies and the Responsible Person/Covered Person bears No Significant Fault or Negligence and he or she will likely be given a period of Ineligibility that is not longer than the period for which he or she has already been provisionally suspended. (This ground does not apply in respect of any Provisional Suspension imposed on a Covered Horse); or

(4) exceptional circumstances exist that make it clearly unfair, taking into account all of the circumstances of the case, to impose a Provisional Suspension prior to the final hearing on the merits. This ground is to be construed narrowly and applied only in truly exceptional circumstances. For example, the fact that the Provisional Suspension would prevent the Responsible Person, Covered Person, or Covered Horse from participating in a particular Timed and Reported Workout, Covered Horserace, or other activity shall not qualify as exceptional circumstances for these purposes.

(e) If the application is made before the Provisional Suspension comes into effect, the Provisional Suspension will not come into effect pending the decision on the application. If the application is made after the Provisional Suspension has come into effect, the Provisional Suspension will remain in place pending the decision on the application.

(f) If it considers it appropriate to do so on the specific facts of the case, the Agency may lift the Provisional Suspension.

(g) If the application to have a Provisional Suspension not imposed/lifted is not granted, a further application may not be made to lift the Provisional Suspension unless: (1) it is based on new and material evidence that the Responsible Person or other Covered Person was not aware of and could not reasonably have been aware of at the time he or she made the original application; or (2) there has been some other significant and material change in circumstances since the original application was decided. If the Responsible Person or other Covered Person makes a further application that does not meet either of these requirements, costs may be awarded against him or her.

(h) Voluntary Provisional Suspension.

(1) In all cases where a Responsible Person/Covered Person has been notified of or charged with a Controlled Medication Rule Violation, but no Provisional Suspension has been imposed on him or her or on the Covered Horse, that person may (on his or her own behalf and, if the Responsible Person, on behalf of the Covered Horse where it might be subject to a period of Ineligibility), voluntarily accept a Provisional Suspension at any time by written notice to the Agency. A copy of the voluntary Provisional Suspension shall promptly be provided to each Interested Party.

(2) A Provisional Suspension that is voluntarily accepted will have effect (in the same manner as if the Provisional Suspension had been imposed under Rule 3347(a)) from the date that written notice of its acceptance is received by the Agency.

(i) No admission will be inferred, or other adverse inference drawn, from the decision of a Covered Person: (1) not to make an application to lift a Provisional Suspension; or (2) to accept a voluntary Provisional Suspension.

(j) If a Provisional Suspension is imposed or voluntarily accepted, and that Provisional Suspension is respected, then the Responsible Person/Covered Person and Covered Horse in question shall receive a credit for such period of Provisional Suspension against any period of Ineligibility that may ultimately be imposed. If the Responsible Person/Covered Person or Covered Horse does not respect a Provisional Suspension, the Responsible Person/Covered Person or Covered Horse shall receive no credit for any period of Provisional Suspension served. If a period of Ineligibility is served pursuant to a decision that is subsequently subject to review, the Responsible Person/Covered Person or Covered Horse shall receive a credit for such period of Ineligibility served against any period of Ineligibility that may ultimately be imposed on review.

(k) Notwithstanding any other provision in this Rule 3347 or elsewhere in the Protocol, any Provisional Suspension imposed on a Covered Horse will be automatically lifted (without the need for any hearing) if it has been in place for a period equal to the period of Ineligibility specified in the Protocol or Prohibited List.

Rule 3348. Charge Letter

If, after receipt of the Covered Person's explanation, or expiry of the deadline to provide such explanation, the Agency remains satisfied that the Covered Person has committed a Controlled Medication Rule Violation(s), the Agency shall promptly charge the Covered Person with the asserted Controlled Medication Rule Violation(s). In this letter of charge (Charge Letter), which will be copied to each Interested Party, the Agency shall:

(a) set out the Controlled Medication Rule Violation(s) that the Covered Person is charged with having committed;

(b) provide a summary of the relevant facts upon which the charge is based, enclosing a copy of the A Sample Laboratory Documentation Package and (if applicable and if requested) the B Sample Laboratory Documentation Package;

(c) specify the Consequences that will apply if the charge is upheld;

(d) grant a deadline of not more than 7 days from receipt of the Charge Letter (unless otherwise agreed by the Agency) for the Covered Person to either:

(1) admit the Controlled Medication Rule Violation(s) charged and:

(i) accept the Consequences proposed by the Agency, in which case the Agency will issue a decision under Rule 3349,

(ii) seek to agree mitigated Consequences with the Agency pursuant to Rule 3349 failing which the Consequences may still be disputed at a hearing; or

(iii) dispute or seek to mitigate the proposed Consequences at a hearing in accordance with Rule 3361 and the Arbitration Procedures; or

(2) deny the Controlled Medication Rule Violation charged and dispute the proposed Consequences at a hearing in accordance with Rule 3361 and Arbitration Procedures;

(e) indicate that if the Covered Person does not challenge the Agency's assertion of a Controlled Medication Rule Violation or the proposed Consequences within the prescribed deadline, the Covered Person shall be deemed to have waived his or her right to a hearing, admitted the Controlled Medication Rule Violation(s) charged, and accepted the Consequences specified by the Agency in the Charge Letter (without any mitigation of those Consequences);

(f) give the opportunity to provide Substantial Assistance in accordance with Rule 3326(a); and

(g) provide all relevant details relating to any Provisional Suspensions (including, if applicable, the possibility to accept a voluntary Provisional Suspension) in accordance with Rule 3347.

Rule 3349. Case Resolution Without a Hearing

(a) At any time prior to a final decision under the Arbitration Procedures: (1) the Agency may withdraw a Charge Letter for good cause, in which case any Provisional Suspension will be automatically lifted and (absent the emergence of new information) no further steps will be taken in relation to the violations alleged in the Charge Letter; or (2) the Covered Person may agree to admit the Controlled Medication Rule Violation(s) charged (or any other violation of the Protocol) and accede to specified Consequences consistent with the Protocol. In any such case, an adjudication under the Arbitration Procedures will not be required.

(b) In the event that the Covered Person admits the Controlled Medication Rule Violation(s) charged and accedes to Consequences specified by the Agency (or is deemed to have done so in accordance with Rule 3348(a)(5)), the Agency will (1) promptly issue a final decision confirming the commission of the Controlled Medication Rule Violation(s) and setting out the factual basis for the decision and all of the Consequences to be imposed (including a brief summary of the reasons for any period of Ineligibility imposed, unless doing so could compromise an ongoing investigation or proceeding), and (2) send notice of the decision to each Interested Party. The Agency will also Publicly Disclose the decision (or a summary thereof, at the discretion of the Agency) in accordance with Rule 3620.

(c) In the event that the Agency withdraws the Charge Letter, it will (1) promptly issue a summary decision confirming the withdrawal of the Charge Letter, (2) send notice of the decision to the Covered Person concerned, with a copy to each Interested Party, and (3) Publicly Disclose the decision (or a summary thereof, at the discretion of the Agency) in accordance with Rule 3620.

Rule 3350. Notification Requirements

(a) Notification of Controlled Medication Rule Violations will take place as set out in Rule 3345 and Rule 3348. If at any point after an ECM Notice has been provided the Agency decides not to move forward with the charge, it will notify the Covered Person(s) concerned and each Interested Party of that decision.

(b) Notification to a Covered Person by the Agency, for all purposes of the Protocol, may be accomplished either through actual or constructive notice. Actual notice may be accomplished by any means. Constructive notice shall be deemed to have been given when the information in question is delivered by third-party courier or U.S. postal mail to the Covered Person's most recent mailing address on file with the Authority or by email or text message to the Covered Person's most recent email address or mobile telephone number on file with the Authority.

3360. Hearings and Review of Final Decisions

Rule 3361. Procedure Before the Internal Adjudication Panel

Where a Covered Person is alleged to have committed a Controlled Medication Rule Violation, a violation of Rule 3329, or any violation of Rule 3510, the Covered Person shall be entitled to request a hearing before the Internal Adjudication Panel in accordance with the Arbitration Procedures. However, the Internal Adjudication Panel may decide, in its sole discretion, to determine the matter based solely on the written submissions without a hearing if the Internal Adjudication Panel considers itself sufficiently well-informed to render a decision on the written submissions alone. A copy of the final decision of the Internal Adjudication Panel shall be sent to the Agency and the Covered Person(s) concerned. Where the Agency considers it necessary or appropriate to do so, a copy of the decision may be sent to any Interested Party. The decision (or a summary thereof, at the discretion of the Agency) shall be Publicly Disclosed as provided in Rule 3620. The Internal Adjudication Panel may also adjudicate any other matter referred to it under the Protocol, and any other matter that might arise from time to time under the Protocol that the Agency considers should be determined by the Internal Adjudication Panel.

Rule 3362. Expedited Hearing

In Controlled Medication Rule Violation cases where the Covered Horse or Covered Person in question is not Provisionally Suspended and is likely to participate in a Covered Horserace within 45 days, the Agency may (if it sees fit) address the case on an expedited basis and shorten any deadlines in the Protocol or Arbitration Procedures proportionately to ensure resolution of the matter prior to the Covered Horserace.

Rule 3363. Finality

Subject to Rule 3364, decisions rendered by the Internal Adjudication Panel under the Protocol shall be final and binding.

Rule 3364. Review of Final Decisions

Any final decision by the Agency or the Internal Adjudication Panel is subject to review in accordance with section 3058 of the Act. Any final decision under review shall remain in effect pending resolution of the review unless ordered otherwise.

3500. Other Violations

Rule 3510. Other Violations Under the Protocol

Where a Covered Person:

(a) engages in disruptive or offensive conduct towards a Doping Control official or other Person involved in Doping Control that does not rise to the level of Tampering;

(b) refuses or fails to cooperate promptly and completely with the Authority or the Agency in the exercise of their respective powers under the Act and the Protocol and related rules, including any refusal or failure to comply with Rule 3040(a)(2);

(c) commits a Whereabouts Failure; or

(d) refuses or fails without compelling justification to comply with any other provision of the Protocol (where such refusal or failure does not constitute an Anti-Doping Rule Violation);

the Covered Person will not be deemed to have committed an Anti-Doping Rule Violation or Controlled Medication Rule Violation. However, disciplinary proceedings may be brought against him or her before the Internal Adjudication Panel in accordance with the Arbitration Procedures or resolved without a hearing applying the rules of proof set out in Rule 3120 and following the procedures set out in section 3360 (in each case, mutatis mutandis, *i.e.,* amended as required to reflect the different context). The Agency will send the Covered Person at issue a notice of the alleged violation, setting out a summary of the relevant facts upon which the charge is based, and giving the Covered Person the opportunity to provide an explanation within a short deadline. If the Internal Adjudication Panel finds the violation alleged to be proven, or if the Covered Person admits the violation alleged and does not request a hearing to determine the consequences, the Internal Adjudication Panel or the Agency (as applicable) may impose sanctions on Covered Persons as set out in Rule 3520.

Rule 3520. Sanctions for Other Violations Under the Protocol

(a) For a violation of Rule 3510(a) (disruptive or offensive conduct), the Covered Person shall be subject to, at a minimum, a reprimand and no period of Ineligibility, and, at a maximum, 30 days of Ineligibility, depending on the seriousness of the violation. A fine of up to $5,000 may also be imposed.

(b) For a violation of Rule 3510(b) (refusal or failure to cooperate), the Covered Person shall be subject to, at a minimum, a reprimand and no period of Ineligibility, and, at a maximum, a period of Ineligibility of up to 2 years, depending on the seriousness of the violation. A fine of up to $15,000 may also be imposed. A failure to comply with Rule 3040(b)(7) will be considered a particularly serious violation that will ordinarily warrant the imposition of the maximum sanction.

(c) For a violation of Rule 3510(c) (Whereabouts Failures), the Covered Person shall not be subject to any penalty for the first Whereabouts Failure, but shall be subject to a fine of $250 for the second Whereabouts Failure, and a fine of $500 for the third Whereabouts Failure. For any subsequent Whereabouts Failures, the fine will increase by $500 each time (*i.e.,* $1,000 for the fourth failure, $1,500 for the fifth failure, etc.).

(d) For a first violation of Rule 3510(d) (refusal or failure to comply with any other provision of the Protocol), the Covered Person shall be subject to, at a minimum, a reprimand and no period of Ineligibility, and, at a maximum, 30 days of Ineligibility, as well as a fine of up to $2,500, depending on the seriousness of the violation.

(e) For any second or subsequent Rule 3510 violation, the maximum potential Ineligibility and potential fine will be double what the maximum potential Ineligibility and potential fine was for the previous violation.

(f) Where a violation of Rule 3510 is alleged and the Covered Person represents a threat to the health, safety, or welfare of horses or the integrity of the sport of horseracing, the Agency may impose a Provisional Suspension on the Covered Person concerned pending resolution of the charge. The Covered Person may challenge the Provisional Suspension in accordance with Rule 3347 (which shall apply mutatis mutandis, *i.e.,* amended as required to reflect the different context).

3600. Confidentiality and Reporting

Rule 3610. Notice of Violations and Confidentiality

(a) Notice.

(1) Notice of Anti-Doping Rule Violation or Controlled Medication Rule Violations shall be sent to the Covered Persons concerned, with a copy to each Interested Party, as set out in Rules 3245/3248 and 3345/3348.

(2) Notice of other violations shall be sent to the Covered Persons concerned. The Agency may send a copy to any Interested Party where it considers it necessary or appropriate to do so in the circumstances.

(3) State Racing Commissions shall only be entitled to receive notice of violations of the Protocol as Interested Parties if they first enter into an agreement with the Agency incorporating confidentiality provisions required by the Agency pursuant to the Act or the Protocol. The Agency may, in its sole discretion, delay notice to the State Racing Commission for case- or investigation-related reasons.

(b) Confidentiality and public reporting.

(1) Subject to the other provisions of this paragraph (b), the Agency will use its reasonable endeavors to ensure that Persons under its control do not publicly identify Covered Horses or Covered Persons who are alleged to have committed a violation under the Protocol, unless and until (i) in presence cases, the B Sample confirms the results of the A Sample analysis, or the B Sample analysis is waived, (ii) a Provisional Suspension has been imposed or voluntarily accepted, (iii) a charge has been brought, or (iv) a violation has been admitted, whichever is earlier.

(2) In such circumstances, subject to paragraph (3) below, the Agency shall publicly report:

(i) the identity of any Covered Person who is the subject of the alleged violation;

(ii) the identity of any relevant Covered Horse(s); and

(iii) the rule violated and, where appropriate, the basis of the asserted violation.

(3) The Agency shall not be required to publicly report a matter under this paragraph (b) if it would risk compromising an ongoing investigation or proceeding. When the Agency determines that an ongoing investigation or proceeding will no longer be compromised by public reporting, the Agency shall at such time make any public reporting required under this Rule.

(4) The mandatory public reporting under Rule 3610(b) shall not be required where the Covered Person who is alleged to have committed a violation is a Minor. Any optional public reporting in a case involving a Minor shall be proportionate to the facts and circumstances of the case.

(5) If at any time information pertaining to an alleged violation is publicly reported by a Person not affiliated with the Authority or the Agency, the Agency may respond to such public comment as it considers necessary.

(6) The Agency may publicly report any relevant information at any time, including prior to delivery of notice of a violation, if the Agency determines that such disclosure:

(i) concerns a violation or circumstance that poses a serious and imminent risk of harm to any Covered Person(s), Covered Horse(s), State Racing Commission(s), Racetrack(s), Race Organizer(s), Training Facilities, or the public; or

(ii) is otherwise in the best interest of horseracing conducted at Covered Horseraces.

(7) The Agency may at any time disclose to other Persons such information as the Agency considers necessary or appropriate to facilitate administration or enforcement of the Protocol (including Interested Parties and other Persons with a need to know), provided that each Person provides assurance satisfactory to the Agency that the organization will maintain all such information in confidence.

(8) Interested Parties and other Persons may not publicly report any information about an alleged violation unless the information has been

publicly reported by the Agency or the Covered Person(s) concerned, or the Agency gives written authorization for him or her to publicly report the information.

Rule 3620. Public Disclosure

(a) The Agency shall Publicly Disclose the resolution of an alleged violation of the Protocol no later than 20 calendar days after:

(1) the final decision;

(2) a resolution between the Agency and the Covered Person; or

(3) the withdrawal of a charge or a final decision finding of no violation.

(b) Public Disclosure shall include:

(1) the name of the Covered Person who committed the violation(s) and any Covered Horse(s) implicated by the violation;

(2) the Rule(s) violated;

(3) the Prohibited Substance(s) or Prohibited Method(s) involved, if any;

(4) the Consequences imposed;

(5) any final decision or a summary thereof, unless publishing that decision could compromise an ongoing investigation or proceeding, and excluding decisions made by the Agency with respect to Atypical Findings pursuant to Appendix 1; and

(6) any review rights available in respect of the decision.

(c) The mandatory Public Disclosure required by this 3620 shall not be required where the Covered Person who has been found to have committed a violation is a Minor. Any optional Public Disclosure in a case involving a Minor shall be proportionate to the facts and circumstances of the case.

(d) Publication shall be accomplished by, at a minimum, placing the required information on the Agency's website.

Rule 3630. General Reporting

The Agency may publish general statistical reports of its Doping Control and Medication Control activities and may report as necessary on its activities to the U.S. Congress, the Commission, the Authority, the State Racing Commissions, and other federal or state governmental bodies or agencies having jurisdiction over the sport of horseracing in the United States. The Agency may also publish reports showing the names of any Covered Horses Tested and the date of each Sample collection.

Rule 3640. Data Privacy

The Agency may collect, store, process, or disclose personal information relating to Covered Persons, Covered Horses, or other Persons and horses where necessary and appropriate to discharge its responsibilities under the Protocol, but shall take appropriate steps to maintain that information and its confidentiality in compliance with applicable law.

3700. Implementation of Decisions

Rule 3710. Application and Recognition of Decisions

(a) Any final decision issued pursuant to the Protocol that a violation of the Protocol has taken place and imposing Consequences or other sanctions for that violation shall be automatically and immediately recognized, respected, enforced and given full force and effect by the Authority, Racetracks, Race Organizers, Training Facilities, all Covered Persons, and all other relevant Persons within their respective spheres of authority.

(b) Where a third party with its own jurisdiction over Covered Persons or Covered Horses imposes consequences on them for violation of anti-doping or controlled medication rules that are consistent with the Protocol or the World Anti-Doping Code, that decision, upon review and acceptance by the Authority and the Agency, shall be immediately recognized, respected, enforced and given full force and effect by the Agency, the Authority, Racetracks, Race Organizers, all Covered Persons, and all other relevant Persons within their respective spheres of authority.

3800. Education

Rule 3810. Education Programs

The Agency shall plan, implement, evaluate, and monitor education programs for responsible medication use and doping-free horseracing.

Rule Series 3000 Appendix 1: Atypical Finding Policy

Overview

1. Atypical Findings occur when the Laboratory provides the results of its analysis of a Sample to the Agency and more investigation or review is needed to determine whether or not it should be treated as an Adverse Analytical Finding. This Atypical Findings Policy (Atypical Findings Policy) sets out the process by which the Agency will decide whether or not Atypical Findings will be pursued as Adverse Analytical Findings.

Prohibited Substances To Be Treated as Atypical Findings

2. If detected in the Sample of a Covered Horse, the following Prohibited Substances shall be investigated or reviewed as Atypical Findings:

(a) Specified Substances;

(b) endogenous substances;

(c) ractopamine; and

(d) zilpaterol.

3. The Laboratory may also report other Atypical Findings in relation to substances that are not specifically listed in the Prohibited List or Technical Document-Prohibited Substances.

Decisions Regarding Atypical Findings

4. The Agency is responsible for issuing a decision regarding whether or not an Atypical Finding will be pursued as an Adverse Analytical Finding.

5. Subject to the notification requirements set out below, the deliberations of the Agency shall be confidential.

Preliminary Steps

6. Initial review.

The Agency will first conduct a review to determine whether there is any apparent departure from any Standards or any provisions of the Protocol that caused the Atypical Finding. If that review does not reveal any departure that caused the Atypical Finding, the Agency will conduct the required investigation in accordance with this Atypical Findings Policy. The precise nature of the investigation will depend on basis for the Atypical Finding, including the Prohibited Substance(s) associated with the Atypical Finding (if applicable), and the level of cooperation of the Responsible Person.

7. Notification.

The Agency will promptly inform the Responsible Person and Interested Parties in writing of the Atypical Finding and any relevant information, such as the Covered Horserace to which the Atypical Finding relates, and the Responsible Person will have the opportunity to provide any information that he or she believes might assist the Agency in deciding whether or not to pursue the Atypical Finding as an Adverse Analytical Finding, as set forth in the criteria below. Such information must be provided to the Agency by the deadlines set by the Agency in order for it to be considered by the Agency.

8. Additional information.

The Agency may request such additional information or explanations from the Responsible Person as it considers necessary to evaluate the Atypical Finding, and the Responsible Person must comply fully and promptly with any such requests.

Criteria

In deciding whether or not an Atypical Finding should be pursued as an Adverse Analytical Finding, the Agency will consider the following criteria:

9. Proving source of the Prohibited Substance(s) as a precondition.

(a) The Responsible Person has the burden of proving how the Prohibited Substance(s) entered the body of the Covered Horse. If the Responsible Person is unable to discharge that burden, the Atypical Finding must be pursued as an Adverse Analytical Finding. If the Responsible Person proves the source, the Agency will determine whether or not the Analytical Finding should be pursued as an Adverse Analytical Finding.

(b) The Agency will take a number of factors into account when considering whether or not the source of the Atypical Finding has been established including, but not limited to:

(i) if there were Atypical Findings for the same Prohibited Substance(s) arising from other Samples collected at the relevant Covered Horserace;

(ii) if there were Atypical Findings for the same Prohibited Substance(s) arising from other Samples collected at previous Covered Horseraces held at the same Racetrack or in the same region;

(iii) if Samples taken from feed or bedding at the relevant Covered Horserace (if such samples are available) test positive for the Prohibited Substance(s) in question;

(iv) if there were other (non-Atypical Finding) Prohibited Substance(s) in the Sample; and

(v) the concentration level of the particular Prohibited Substance(s) in the Sample.

(c) In addition, the Agency may, in accordance with Rules 3246 and 3346 of the Protocol, request the B Sample analysis.

(d) If the Atypical Finding concerns a Prohibited Substance(s) that is an endogenous substance, the Agency will request that the Responsible Person provide any veterinary information that would assist in establishing if the result is due to a physiological or pathological condition, and such information shall be taken into account by the Agency.

(e) When trying to establish the source of the Prohibited Substance(s) in question, the Agency may consult, as necessary, with one or more experts to obtain further information on the Prohibited Substance(s) in order to assess whether or not: (i) the explanations provided by the Responsible Person (if any) are plausible; or (ii) the presence of the Prohibited Substance(s) in the Sample is likely to be due to contamination.

(f) The Agency will consider any measures the Responsible Person has in place to prevent Prohibited Substances entering the body of his or her Covered Horse(s), including:

(i) whether or not the Responsible Person keeps up-to-date treatment records;

(ii) whether or not the Responsible Person keeps a record of the feed and supplements given to his or her Covered Horses, and whether samples of such feed or supplements have been stored for potential analysis;

(iii) the security measures put in place by the Responsible Person at his or her stables and when travelling to or attending Covered Horseraces; and

(iv) other measures taken by the Responsible Person to prevent Prohibited Substances inadvertently entering the body of his or her Covered Horses.

10. Other factors.

The Agency may also have regard to other factors that it considers necessary or relevant, including, but not limited to:

(a) the security measures in place at the relevant Covered Horserace;

(b) the report(s) of the Veterinarians or stewards at the relevant Covered Horserace;

(c) the prevalence of the use of the Prohibited Substance(s); and

(d) whether or not the Responsible Person has any prior Anti-Doping Rule Violation(s) or Controlled Medication Rule Violation(s) (excluding any violations where the Responsible Person was found to bear No Fault or Negligence).

Conclusion of the Investigation and Notification

11. Following the Agency's investigation of the Atypical Finding in accordance with the criteria above, the Agency shall decide whether or not the Atypical Finding should be pursued as an Adverse Analytical Finding. The Agency shall issue a written decision, with a short summary of the basis for that decision. The decision of the Agency is final and is not subject to review. The Agency will send a copy of its decision to the Responsible Person.

12. If the Agency determines that the Atypical Finding should not be pursued as an Adverse Analytical Finding, no further action will be taken, and no case will be opened against the Responsible Person.

13. If the Agency determines that the Atypical Finding should be pursued as an Adverse Analytical Finding, the Agency will follow the notification procedure set out in Rules 3250 and 3350 and will refer the matter for adjudication in accordance with the Arbitration Procedures (unless the matter is resolved by agreement without a hearing as permitted under the Protocol). The Agency may rely on any information submitted or obtained when investigating the Atypical Finding in the subsequent Adverse Analytical Finding case.

Publication of Atypical Findings

14. At the end of each year, the Agency may publish a report setting out the following information, on an anonymised basis:

(a) how many Atypical Findings were reported by Laboratories that year;

(b) how many Atypical Findings were pursued as Adverse Analytical Findings, and the Prohibited Substances in question;

(c) how many Atypical Findings were not pursued as Adverse Analytical Findings, and the Prohibited Substances in question; and

(d) how many Atypical Findings remain under investigation.

Public Comment

15. Unless there are compelling reasons (as determined by the Agency), no Person may make any public comment on the specific details of an Atypical Finding while the investigation is ongoing. If such a disclosure is made by a Person not affiliated with the Authority or the Agency, the Authority or the Agency may respond to such public comment as it considers necessary.

16. If an Atypical Finding is not pursued as an Adverse Analytical Finding, no Person may make any public comment on the details of that Atypical Finding without the prior consent of the Responsible Person. If such a disclosure is made by a Person not affiliated with the Authority or the Agency, the Authority or the Agency may respond to such public comment as it considers necessary.

4000. Prohibited List

4010. Purpose

In accordance with Rule 3111, the Prohibited List identifies substances and methods that are prohibited at all times (Banned Substances and Banned Methods) and those that are prohibited for Use or Administration in relation to a Covered Horse during the Race Period and prohibited to be present in a Post-Race Sample or Post-Work Sample, except as otherwise specified in the Prohibited List (Controlled Medication Substances and Controlled Medication Methods). In accordance with the definition of ''Race Period'' (see Rule 1020), the Prohibited List may specify that, for certain specified Controlled Medication Substances and Controlled Medication Methods, the Race Period shall be shorter or longer in duration.

Prohibited Substances and Prohibited Methods may be included in the Prohibited List by general category (*e.g.,* anabolic steroids) or by specific reference to a particular substance or method. The Prohibited List is supplemented by the ''Technical Document—Prohibited Substances,'' which provides guidance on the Prohibited Substances that fall into the general categories listed in the Prohibited List and on the Screening Limits, Thresholds, or Detection Times for those Prohibited Substances (as applicable), and also designates certain Prohibited Substances as Specified Substances, which are those that pose a higher risk of being the result of contamination and, therefore, are subject to more flexible sanctions. Certain Prohibited Substances might also first be reported as Atypical Findings requiring further investigation before being declared as Adverse Analytical Findings, in accordance with the Atypical Findings Policy set out as Appendix 1 to the Protocol. The Prohibited List also sets out the periods of Ineligibility applicable to Covered Horses for Anti-Doping Rule Violations and Controlled Medication Rule Violations (see Rule 4300).

4100. Banned Substances and Banned Methods

4110. Banned Substances

Rule 4111. S0 Non-Approved Substances

Any pharmacological substance that (i) is not addressed by Rules 4112 through 4117, (ii) has no current approval by any governmental regulatory health authority for veterinary or human use, and (iii) is not universally recognized by veterinary regulatory authorities as a valid veterinary use, is prohibited at all times. For the avoidance of doubt, compounded products compliant with the Animal Medicinal Drug Use Clarification Act (AMDUCA) and the FDA Guidance for Industry (GFI) #256 (also known as Compounding Animal Drugs from Bulk Drug Substances) are not prohibited under this section S0.

Rule 4112. S1 Anabolic Agents

The following substances, and other substances with similar chemical structure or similar biological effect(s), are prohibited at all times:

(a) anabolic androgenic steroids when administered exogenously;

(b) other anabolic agents, including, but not limited to:

(1) Selective Androgen Receptor Modulators (SARMs);

(2) Zeranol;

(3) Zilpaterol; and

(4) Ractopamine.

Rule 4113. S2 Peptide Hormones, Growth Factors, Related Substances, and Mimetics

The following substances, and other substances with similar chemical structure or similar biological effect(s), are prohibited at all times:

(a) Erythropoietins (EPO) and agents affecting erythropoiesis, including, but not limited to:

(1) erythropoietin-receptor agonists;

(2) Hypoxia-Inducible Factor (HIF) activating agents;

(3) GATA (Erythroid Transcription Factor) inhibitors;

(4) Transforming Growth Factor-beta (TGF-β) signaling inhibitors; and

(5) innate repair receptor agonists.

(b) Peptide Hormones and their releasing factors, including, but not limited to:

(1) Chorionic Gonadotrophin (CG) and Luteinizing Hormone (LH) and their releasing factors in stallions, ridglings, and geldings;

(2) corticotrophins and their releasing factors (excluding ACTH if administered outside the Race Period);

(3) Growth Hormone (GH) and its analogues and fragments; and

(4) Growth Hormone (GH) releasing factors.

(c) Growth factors and growth factor modulators affecting muscle, tendon, or ligament protein synthesis/degradation, vascularization, energy utilization, regenerative capacity, or fiber type switching.

Rule 4114. S3 Beta-2 Agonists

The following substances, and other substances with similar chemical structure or similar biological effect(s), are prohibited at all times: all selective and non-selective beta-2 agonists, including all optical isomers. Notwithstanding the above, the following are not prohibited under this section S3:

(a) inhaled beta-2 agonists (*e.g.,* albuterol, salbutamol) when prescribed by a Veterinarian (in the context of a valid veterinarian-patient-client relationship) as a bronchodilator; and

(b) clenbuterol when prescribed by a Veterinarian (in the context of a valid veterinarian-patient-client relationship) for a duration not to exceed 30 days in a 6-month period and provided that, following administration of clenbuterol, the Covered Horse shall be placed on the Veterinarians' List and shall not be eligible to participate in any Timed and Reported Workout or Covered Horserace until a urine and a blood Sample have been collected from it by or on behalf of the Agency, and analysis by a Laboratory of those Samples does not detect the presence of clenbuterol or its Metabolites or Markers.

Rule 4115. S4 Hormone and Metabolic Modulators

The following substances, and other substances with similar chemical structure or similar biological effect(s), are prohibited at all times:

(a) aromatase inhibitors;

(b) anti-estrogenic substances, anti-estrogens, and selective estrogen receptor modulators (SERMS);

(c) agents preventing activin receptor IIB activation, including, but not limited to, myostatin inhibitors;

(d) metabolic modulators, including, but not limited to:

(1) insulins and insulin-mimetics;

(2) meldonium; and

(3) trimetazidine; and

(e) thyroid hormone and thyroid hormone modulators.

Rule 4116. S5 Diuretics and Masking Agents

(a) Diuretics and masking agents, and other substances with a similar chemical structure or similar biological effect(s), are prohibited at all times.

(b) Notwithstanding the above, the following are not prohibited under this section S5:

(1) drospirenone, pamabrom, and topical ophthalmic administration of carbonic anhydrase inhibitors (*e.g.,* dorzolamide, brinzolamide);

(2) trichlormethiazide for treatment of edema;

(3) plasma expanders for life-saving procedures; and

(4) furosemide (also known as Lasix/Salix), subject to the limitations set out in Rule 4212(d).

Rule 4117. S6 Miscellaneous Substances

The following substances, and other substances with similar chemical structure or similar biological effect(s), are prohibited at all times:

(a) bisphosphonates (except that bisphosphonates may be administered for the purpose of diagnostic imaging, *i.e.,* gamma scintigraphy);

(b) toxins (*e.g.,* botulinum toxin, botox);

(c) venoms of any species, their synthetic analogs, or derivatives thereof;

(d) altrenogest in stallions, ridglings, or geldings;

(e) pitcher plant extract (Sarapin); and

(f) perfluorocarbons.

4120. Banned Methods

Rule 4121. M1 Manipulation of Blood and Blood Components

The following are prohibited at all times:

(a) The Administration or reintroduction of any quantity of autologous, allogenic (homologous), or heterologous blood or red blood cell products of any origin into the circulatory system.

(b) Artificially enhancing the uptake, transport, or delivery of oxygen, including, but not limited to: perfluorochemicals; efaproxiral (RSR13); and modified haemoglobin products, *e.g.,* haemoglobin-based blood substitutes and microencapsulated haemoglobin products; excluding supplemental oxygen by inhalation.

(c) Any form of intravascular manipulation of the blood or blood components by physical or chemical means.

(d) Withdrawal of blood for any purpose other than for diagnostic/Laboratory Testing procedures.

(e) Notwithstanding the above, manipulation of blood or blood components is not prohibited under this section M1:

(1) procedures performed for life-saving purposes; and

(2) use of veterinary regenerative therapies (*i.e.,* autologous conditioned serum or platelet-rich plasma) for the treatment of musculoskeletal injury or disease.

Rule 4122. M2 Chemical Castration or Immunocastration

In case of chemical castration or immunocastration, the Covered Horse shall remain designated as an intact male. Designating a Covered Horse that has had chemical castration or immunocastration as a gelding constitutes Use of a Prohibited Method.

Rule 4123. M3 Gene and Cell Doping

The following, which have the potential to enhance performance or modify the heritable genome, are prohibited at all times:

(a) the use of nucleic acids or nucleic acid analogues that might alter genome sequences or alter gene expression by any mechanism. This includes, but is not limited to, gene editing, gene silencing, and gene transfer technologies;

(b) the use of normal or genetically modified cells; and

(c) modification of the heritable genome.

4200. Controlled Medication Substances and Controlled Medication Methods

4210. Controlled Medication Substances

Rule 4211. S7 Controlled Medication Substances

(a) Subject to Rule 4212, only feed, hay, and water are permitted during the Race Period. Accordingly, subject to Rule 4212, any substance administered during the Race Period or present in a Post-Race Sample (including any metabolite(s), artifact(s), and isomer(s) of such substance(s)) that does not otherwise qualify as a Banned Substance shall constitute a prohibited Controlled Medication Substance.

(b) The following Controlled Medication Substances are prohibited from presence in a Post-Work Sample:

(1) analgesics;

(2) Nonsteroidal Anti-Inflammatory Drugs (NSAIDs);

(3) local anesthetics; and

(4) corticosteroids.

(c) S7 Controlled Medication Substances exclude those substances that fall under section S0, which are Banned Substances.

Rule 4212. Exceptions to Rule 4211

(a) Medications administered or authorized by a Regulatory Veterinarian or Test Barn Veterinarian to provide medical care to a Covered Horse as a result of an injury sustained, or other adverse health event, during the Race Period are not prohibited.

(b) The following may be administered up to 24 hours prior to Post-Time:

(1) orally administered vitamins;

(2) licensed vaccines against infectious agents;

(3) anti-ulcer medications (*e.g.,* Cimetidine, Omeprazole, and Ranitidine);

(4) unsupplemented isotonic electrolyte solutions by oral or intravenous administration;

(5) altrenogest in female horses;

(6) antimicrobials (antibiotics) and other anti-infective agents, excluding procaine penicillin or other antimicrobial/anti-infective agents containing or metabolizing to Prohibited Substances; and

(7) antiparasitic/anthelmintics approved and registered for use in horses, excluding levamisole or other antiparasitic/anthelmintics metabolizing to or containing other Prohibited Substances.

(c) Unsupplemented isotonic electrolyte solutions may be consumed by the horse's free choice at any time (but may not be administered except as provided in paragraph (b) above).

(d) Furosemide (also known as Lasix or Salix):

(1) is permitted during Timed and Reported Workouts and Vets' List Workouts; and

(2) may be administered during the Race Period in accordance with specific provisions of the Act and any guidance or exceptions approved by the Authority, but shall not be administered within the 4 hours prior to Post-Time.

(e) The Use or Administration of supplements or feed additives during the Race Period shall not be prohibited if the Responsible Person or Covered Person establishes, or the Agency expressly accepts, that such substances are not capable at any time of causing an action or effect, or both an action and effect, within one or more of the following mammalian body systems:

(1) the blood system;

(2) the urinary system;

(3) the cardiovascular system;

(4) the digestive system;

(5) the endocrine system;

(6) the immune system;

(7) the musculoskeletal system;

(8) the nervous system;

(9) the reproductive system; or

(10) the respiratory system.

4220. Controlled Medication Method(s)

In addition to any prohibited practices set forth in the Rule 2000 Series (Racetrack Safety Program):

Rule 4221. M4 Alkalinization or Use/Administration of an Alkalinizing Agent

Alkalinization or Use/Administration of an alkalinizing agent is prohibited on Race Day. A threshold concentration of total carbon dioxide (TCO2) in the blood in excess of 37 mmol constitutes prima facie evidence of alkalinization or Use/Administration of an alkalinizing agent.

Rule 4222. M5 Intra-Articular Injections

Intra-articular injections are prohibited on Race Day; within 14 days prior to Post-Time; and within 7 days prior to any Timed and Reported Workout.

Rule 4223. M6 Nasogastric Tube

The use of a nasogastric tube for any purpose is prohibited within 24 hours prior to Post-Time.

Rule 4224. M7 Intra-Articular Injections of Polyacrylamide Hydrogels

Intra-articular injections of polyacrylamide hydrogels are prohibited within 180 days prior to Post-Time.

Rule 4225. Modification of Race Period

The start of the ''Race Period'' shall be modified for each of the Controlled Medication Methods above (*i.e.,* each of M4–M7) based on the restricted administration time period specified for such method (*e.g.,* the Race Period for M7 shall start180 days prior to Post-Time).

4300. Ineligibility Periods for Covered Horse

4310. Violations Involving Prohibited Substances

The period of Ineligibility of a Covered Horse resulting from a violation involving a Prohibited Substance shall be as set forth in Table 1 below:

TABLE 1

Violation	Ineligibility period
S0 BANNED Substances-non-approved substances	Up to 14 months
S1 BANNED Substances-anabolic agents	14 months
S2 BANNED Substances-peptide hormones	6 months
S3 BANNED Substances-beta-2 agonists	14 months
S4 BANNED Substances-hormone and metabolic modulators	3 months
S5 BANNED Substances-diuretics and masking agents	0 months
S6 BANNED Substances-miscellaneous substances:	
(1) Bisphosphonates	Life
(2) All other S6 miscellaneous substances	0 months.
S7 CONTROLLED Medication Substances	0 months. The Covered Horse may be placed on the Veterinarians' List, and if so, a subsequent Vets' List Workout must be scheduled. A post-Vets' List Workout Sample may be required

4320. Violations Involving Prohibited Methods

The period of Ineligibility of a Covered Horse resulting from a violation involving a Prohibited Method shall be as set forth in Table 2 below:

TABLE 2

Violation	Ineligibility period
M1 Manipulation of blood and blood components	6 months.
M2 Chemical castration or immunocastration	0 months.
M3 Gene and cell doping	Life.
M4 Alkalinization	0 months.
M5 Intra-articular injection	1 month.
M6 Nasogastric tube	0 months.
M7 Intra-articular injection of polyacrylamide hydrogel	12 months.

4330. Other Violations Leading to a Period of Ineligibility for the Covered Horse

The period of Ineligibility of a Covered Horse resulting from a violation of Rule 3215 shall be as set forth in Table 3 below:

TABLE 3

Violation	Ineligibility period
Evading collection of a Sample from a Covered Horse; refusing or failing without compelling justification to submit a Covered Horse to Sample collection; or refusing or failing to comply with all Sample collection procedure requirements (Rule 3215).	*Evasion:* 18 months. *Refusal or failure:* 18 months, unless it is established by the Responsible Person that fairness requires otherwise, in which case the period of Ineligibility may be reduced, depending on the specific circumstances of the case and considerations of horse welfare.

Appendix 1 to Rule Series 4000: Technical Document—Prohibited Substances

HISA listed as	HISA status	Penalty subclassification (specified substances are designated with 'x')	Substance	Action	Commercial name(s) (*developmental names*)	Detection time	Screening limit*
BANNED	S1		Δ-1-androstene-3, 17diol	Anabolic	Lacks FDA approval. DEA Schedule III.		
BANNED	S1		Δ-1-androstene-3, 17dione	Anabolic	Lacks FDA approval. DEA Schedule III.		
BANNED	S1		Δ-1-dihydrotestosterone	Anabolic	Lacks FDA approval. DEA Schedule III.		
BANNED	S1		19-Norandrostenediol	Anabolic	Lacks FDA approval. DEA Schedule III.		
BANNED	S1		19-Norandrostenedione	Anabolic	Lacks FDA approval. DEA Schedule III.		
BANNED	S1		19-Noretiocholanolone	Anabolic	Lacks FDA approval.		
BANNED	S1		1-androstenediol (5α androst-1-ene-3β, 17βdiol).	Anabolic	Lacks FDA approval. DEA Schedule III.		
BANNED	S1		1-androstenedione (5αandrost-1-ene-3, 17dione).	Anabolic	Lacks FDA approval. DEA Schedule III.		
BANNED	S1		1-testosterone (17βhydroxy-5α-androst-1en-3-one).	Anabolic	Lacks FDA approval. DEA Schedule III.		
BANNED	S0		2-Aminoheptane (Tuaminoheptane).	Sympathomimetic/Vasoconstrictor.	Lacks FDA approval.		
BANNED	S4		2-androstenol(5α-androstane-2-en-17-ol).	Pheromone/Reproductive Hormone.	Lacks FDA approval.		
BANNED	S4		2-androstenone (5α-androst-2-en-17-one).	Pheromone/Reproductive Hormone.	Lacks FDA approval.		
BANNED	S0		3,4-methylenedioxypyrovalerone (MDVP).	Stimulant	Lacks FDA approval.		
BANNED	S4		3-androstenol (5α-androst-3-en-17-ol).	Pheromone/Reproductive Hormone.	Lacks FDA approval.		
BANNED	S4		3-androstenone (5α-androst-3-en-17-one).	Pheromone/Reproductive Hormone.	Lacks FDA approval.		
BANNED	S4		4-androstenediol (androst-4-ene- 3β,17βdiol).	Anabolic	Lacks FDA approval. DEA Schedule III.		
BANNED	S4		4-chloromethatandienone	Anabolic	Lacks FDA approval. DEA Schedule III.		
BANNED	S1		4-Hydroxytestosterone	Anabolic	Lacks FDA approval. DEA Schedule III.		
BANNED	S4		5-androstenedione (androst-5-ene- 3,17dione).	Anabolic	Lacks FDA approval. DEA Schedule III.		
BANNED	S1		5α-Andros-2-ene-17one	Anabolic	Lacks FDA approval. DEA Schedule III.		
BANNED	S1		5α-Androstane-3α, 17 α-diol	Anabolic	Lacks FDA approval. DEA Schedule III.		
BANNED	S1		5α-Androstane-3α, 17 β-diol	Anabolic	Lacks FDA approval. DEA Schedule III.		
BANNED	S1		5α-Androstane-3β, 17α -diol	Anabolic	Lacks FDA approval. DEA Schedule III.		
BANNED	S1		5α-Androstane-3β, 17β -diol	Anabolic	Lacks FDA approval. DEA Schedule III.		
BANNED	S1		5β-androstane-3 α, 17βdiol, androst-4- ene3α,17α-diol.	Anabolic	Lacks FDA approval. DEA Schedule III.		
BANNED	S1		7-keto-dhea	Anabolic.			
BANNED	S1		7α-hydroxy-dhea	Anabolic.			
BANNED	S1		7β-hydroxy-dhea	Anabolic.			
BANNED	S5		Acebutolol	Antihypertensive	Generic.		
BANNED	S0		Acecarbromal	Sedative/Hypnotic	Lacks FDA approval.		
BANNED	S0		Acefylline	Bronchodilator	Lacks FDA approval.		
BANNED	S0		Acemetacin	NSAID	Lacks FDA approval.		
BANNED	S0		Acenocoumarol	Anticoagulant	Lacks FDA approval.		

HISA listed as	HISA status	Penalty subclassification (specified substances are designated with 'x')	Substance	Action	Commercial name(s) (*developmental names*)	Detection time	Screening limit*
CONTROLLED	S7	B	Acepromazine	Sedative	PromAce, Aceproject	Detection Time: 72 hrs 0.15 mg/kg single oral dose (6 horses). Detection Time: 48 hrs 0.05 mg/kg single IV dose (20 horses).	10 ng/mL as 2-(1- hydroxyethyl) promazine sulfoxide (HEPS) in urine; 0.02 ng/mL in serum or plasma.
CONTROLLED	S7	C	Acetaminophen (Paracetamol)	NSAID	Tylenol.		
BANNED	S0		Acetanilide	NSAID	Lacks FDA approval.		
BANNED	S5		Acetazolamide	Carbonic Anhydrase Inhibitor	Generic.		
BANNED	S0		Acetohexamide	Insulin secretion	Discontinued, no FDA-approved product commercially available.		
BANNED	S0		Acetophenazine	Antipsychotic	Discontinued, no FDA-approved product commercially available.		
BANNED	S0		Acetophenetidin (Phenacetin)	NSAID	Lacks FDA approval.		
CONTROLLED	S7	C	Acetylcysteine	Mucolytic	Mucomyst, Parvolex.		
BANNED	S0		Acetylmorphine	Opioid Analgesic	Lacks FDA approval.		
CONTROLLED	S7	C	Acetylsalicylic acid (Aspirin)	NSAID	Generic.		
BANNED	S0		Aclidinium bromide	Bronchodilator	Tudorza Pressair; Dualkir Pressair (with formoterol).		
BANNED	S0		Adinazolam	Sedative/Anxiolytic	Lacks FDA approval.		
BANNED	S0		Adiphenine	Antispasmodic	Lacks FDA approval.		
BANNED	S0		Adrafinil	Stimulant	Lacks FDA approval.		
BANNED	S4		AICAR (5-Aminoimidazole-4-carboxamide ribonucleotide).	Metabolic modulator	Lacks FDA approval.		
CONTROLLED	S7	B	Albuterol (Salbutamol)	Bronchodilator	FDA-approved equine product Torpex no longer commercially available. Available as FDA-approved for human use via inhalation as Proair HFA, Ventolin HFA, and generic formulations.	Detection Time: 72 hours at 5 x 100 µg actuations per dose for 2 days dosed every 4 hours. *Note:* Albuterol administered by any route other than inhalation is a Banned Substance. Evidence that albuterol was administered by a route other than inhalation, regardless of the albuterol concentration in a urine sample, constitutes a Doping Violation.	SL: 0.5 ng/mL in urine.
BANNED	S0		Alclofenac	NSAID	Lacks FDA approval.		
CONTROLLED	S7	C	Alclometasone	Corticosteroid	Generic.		
BANNED	S0		Alcuronium	Muscle relaxant	Lacks FDA approval.		
BANNED	S5		Aldosterone	Diuretic	Lacks FDA approval.		
BANNED	S6		Alendronate	Bisphosphonate	Fosamax, Binosto.		
BANNED	S2		Alexamorelin	Growth Hormone	Lacks FDA approval.		
CONTROLLED	S7	A	Alfentanil	Opioid Analgesic	Alfenta. DEA Schedule II.		
CONTROLLED	S7	B	Allopurinol	Xanthine oxidase inhibitor	Lopurin, Zyloprim, Aloprim.		
BANNED	S0		Almotriptan	Selective Serotonin Receptor Agonist.	Generic.		
BANNED	S0		Alpha- pyrrolidinovalerophenone (Alpha PVP and "Bath Salts").	Stimulant/Hallucinogen	Lacks FDA approval. DEA Schedule I.		
BANNED	S2		Alpha-casozepine	Sedative	Lacks FDA approval.		
BANNED	S0		Alphadolone (Alfadolone) acetate.	Anesthetic	Lacks FDA approval.		
BANNED	S0		Alphaprodine	Opioid Analgesic	Lacks FDA approval. DEA Schedule II.		
BANNED	S0		Alphenal	Barbiturate/Anticonvulsant	Lacks FDA approval.		

BANNED	S0		Alpidem	Anxiolytic	Lacks FDA approval.
CONTROLLED	S7	A	Alprazolam	Sedative/Anxiolytic	Xanax. DEA Schedule IV.
BANNED	S0		Alprenolol	Antihypertensive	Generic.
BANNED	S0		Althesin	Anesthetic	Lacks FDA approval.
BANNED	S5		Althiazide	Diuretic	Lacks FDA approval.
CONTROLLED—fillies and mares.	S7	C	Altrenogest	Progestogen/Estrus Suppression.	Regumate.
BANNED—Intact males, geldings, spayed females.	S6		Altrenogest	Progestogen/Estrus Suppression.	Regumate.
BANNED	S0		Alverine	Antispasmodic	Lacks FDA approval.
BANNED	S0		Amantadine	Dopamine agonist	Gocovri, Osmolex ER.
BANNED	S0		Ambenonium	Cholinesterase Inhibitor	Discontinued, no FDA-approved product commercially available.
BANNED	S0		Ambroxol	Mucolytic	Lacks FDA approval.
BANNED	S0		Ambucetamide	Antispasmodic	Lacks FDA approval.
CONTROLLED	S7	C	Amcinonide	Corticosteroid	Generic.
BANNED	S0		Amfepramone	Antidepressant	Lacks FDA approval.
BANNED	S0		Amfetaminil	Stimulant	Lacks FDA approval.
BANNED	S0		Amidephrine	Stimulant	Lacks FDA approval.
BANNED	S5		Amiloride	Diuretic	Midamor.
BANNED	S0		Amineptine	Antidepressant	Lacks FDA approval.
CONTROLLED	S7	C	Aminocaproic acid	Anti-fibrinolytic	Amicar.
BANNED	S4		Aminoglutethimide	Aromatase inhibitor	Discontinued, no FDA-approved product commercially available.
BANNED	S0		Aminomethylbenzoic acid	Anti-fibrinolytic	Lacks FDA approval.
BANNED	S0		Aminometradine	Diuretic	Lacks FDA approval.
CONTROLLED	S7	B	Aminophylline	Bronchodilator	Generic.
BANNED	S0		Aminopterin	Anti-neoplastic/Immunosuppressive.	Lacks FDA approval.
BANNED	S0		Aminopyrine (Pyramidon)	Analgesic	Lacks FDA approval.
BANNED	S0	(x)	Aminorex	Stimulant	Lacks FDA approval. DEA Schedule I.
CONTROLLED	S7	B	Amiodarone	Antiarrhythmic	Nexterone, Pacerone.
BANNED	S0		Amiphenazole	Respiratory Stimulant	Lacks FDA approval.
BANNED	S5		Amisometradine	Diuretic	Lacks FDA approval.
BANNED	S0		Amisulpride	Antipsychotic	Barhemsys.
CONTROLLED	S7	A	Amitraz	Stimulant	Mitaban.
CONTROLLED	S7	A	Amitriptyline	Antidepressant	Elavil.
BANNED	S5		Amlodipine	Antihypertensive	Norvasc.
BANNED	S0		Ammonium Chloride	Chemical neurectomy	Generic.
BANNED	S0		Ammonium Sulphate	Chemical neurectomy	Lacks FDA approval.
BANNED	S0		Ammonium Sulphide	Chemical neurectomy	Lacks FDA approval.
BANNED	S0		Amobarbital	Bartiburate/Anticonvulsant	Lacks FDA approval. DEA Schedule III.
BANNED	S0		Amoxapine	Antidepressant	Generic.
BANNED	S0		Amperozide	Antipsychotic	Lacks FDA approval.
BANNED	S0		Amphetamine	Stimulant	Adzenys XR–ODT, Dyanavel XR, Evekeo. DEA Schedule III.
BANNED	S0		Amphetaminil	Stimulant	Lacks FDA approval.
BANNED	S0		Ampyrone	NSAID	Lacks FDA approval.
CONTROLLED	S7	B	Amrinone (inamrinone)	Vasodilator	Amicor, Cardiotone.
BANNED	S0		Amyl nitrite	Antihypertensive/CNS Depressant.	Lacks FDA approval.
BANNED	S0		Amylocaine	Local anesthetic	Lacks FDA approval.
BANNED	S2		Anamorelin	Growth Hormone	New Drug Application submitted; currently lacks FDA approval.
BANNED	S4		Anastrozole	Anti-estrogen	Arimidex.
BANNED	S1		Andarine	Selective Androgen Receptor Modulator (SARM).	Lacks FDA approval.
BANNED	S1		Androst-4-ene-3α,17β diol	Anabolic	DEA Schedule III.
BANNED	S1		Androst-4-ene-3β,17α diol	Anabolic	DEA Schedule III.
BANNED	S1		Androst-5-ene-3α,17α diol	Anabolic	DEA Schedule III.
BANNED	S1		Androst-5-ene-3α,17β diol	Anabolic	DEA Schedule III.
BANNED	S1		Androst-5-ene-3β,17α diol	Anabolic	DEA Schedule III.

HISA listed as	HISA status	Penalty subclassification (specified substances are designated with 'x')	Substance	Action	Commercial name(s) (*developmental names*)	Detection time	Screening limit*
BANNED	S4		Androstatrienedione (Androsta-1,4,6-triene-3,17-ddione).	Anabolic	DEA Schedule III.		
BANNED	S4		Androstenediol (androst-5-ene-3β, 17βdiol).	Anabolic	DEA Schedule III.		
BANNED	S4		Androstenedione (androst-4-ene-3, 17dione).	Anabolic	DEA Schedule III.		
BANNED	S4		Androsterone (3 βhydroxy-5 α-androstan-17-one).	Anabolic	DEA Schedule III.		
BANNED	S0		Anileridine	Opioid Analgesic	Discontinued, no FDA-approved product commercially available. DEA Schedule II.		
BANNED	S0		Anilopam	Opioid Analgesic	Lacks FDA approval.		
BANNED	S0		Anisindione	Anticoagulant	Discontinued, no FDA-approved product commercially available.		
BANNED	S0		Anisotropine (Octatropine methylbromide).	Anticholinergic	Discontinued, no FDA-approved product commercially available.		
CONTROLLED	S7	B	Antazoline	Antihistamine (ophthalmic)	Discontinued, no FDA-approved product commercially available.		
BANNED	S0		Antipyrine	NSAID	Lacks FDA approval.		
BANNED	S0		Apazone (Azapropazone)	NSAID	Lacks FDA approval.		
BANNED	S0		Apocodeine	Dopamine agonist	Lacks FDA approval.		
BANNED	S0		Apomorphine	Opioid Analgesic	Kynmobi, Apokyn.		
BANNED	S0		Aprindine	Antiarrhythmic	Lacks FDA approval.		
BANNED	S0		Aprobarbital	Barbiturate	Lacks FDA approval. DEA Schedule III.		
BANNED	S0		Apronalide	Sedative/Hypnotic	Lacks FDA approval.		
BANNED	S2		ARA–290	Erythropoiesis	FDA Orphan Drug status.		
BANNED	S0		Arecoline	Stimulant	Lacks FDA approval.		
BANNED	S3		Arformoterol	Beta-2 agonist-bronchodilator	Brovana.		
BANNED	S2		Argon	Hypoxia Inducible Factor activating.			
BANNED	S4		Arimistane (Anrosta-3,5-diene-7,17-dione).	Anabolic	Lacks FDA approval.		
CONTROLLED	S7	A	Aripiprazole	Antipsychotic	Abilify.		
CONTROLLED	S7	B (x)	Arsenic	Stimulant	Environmental substance		0.3 mcg/mL total (free and conjugated) in urine.
CONTROLLED	S7	B	Articaine	Local anesthetic	Orabloc, Septocaine.		
BANNED	S2		Asialo EPO	Erythropoiesis.			
BANNED	S0		Atenolol	Antihypertensive	Tenormin.		
CONTROLLED	S7	A	Atipamezole	Alpha adrenergic antagonist	Antisedan, Revertidine.		
BANNED	S0		Atomoxetine	Stimulant	Strattera.		
CONTROLLED	S7	A	Atracurium	Muscle relaxant	Generic.		
CONTROLLED	S7	B (x)	Atropine	Anticholinergic	Atropen.		60 ng/mL total (free and conjugated) in urine.
BANNED	S0		Azacylonol (γ-pipradrol)	CNS depressant	Lacks FDA approval.		
BANNED	S0		Azaperone	Sedative	Stresnil.		
BANNED	S0		Azapetine	Vasodilator	Lacks FDA approval.		
BANNED	S0		Azapropazone	NSAID	Lacks FDA approval.		
BANNED	S0		Azathioprine	Immunosuppressor	Imuran.		
BANNED	S0		Azatidine (Azatadine)	Antihistamine	Discontinued, no FDA-approved product commercially available.		
BANNED	S5		Azosemide	Diuretic	Lacks FDA approval.		
CONTROLLED	S7	B	Baclofen	Muscle relaxant	Lyvispah, Gablofen, Lioresal, Ozobax, Fleqsuvy.		
BANNED	S0		Bambuterol	Beta-2 agonist-bronchodilator	Lacks FDA approval.		
BANNED	S0		Bamifylline	Bronchodilator	Lacks FDA approval.		
BANNED	S0		Barbital (barbitone)	Sedative/Hypnotic	Lacks FDA approval. DEA Schedule IV.		

BANNED	S4		Bazedoxifene	Selective Estrogen Receptor Modulator (SERM).	FDA-approved in combination with Premarin as Duavee.		
BANNED	S0		Beclamide	Anticonvulsant	Lacks FDA approval.		
CONTROLLED	S7	C	Beclomethasone	Corticosteroid	Qvar, Qnasl, Beclovent.		
BANNED	S0		Bemegride	Stimulant	Lacks FDA approval.		
BANNED	S0		Benactyzine	Anticholinergic	Lacks FDA approval.		
BANNED	S0		Benapryzine	Anticholinergic	Lacks FDA approval.		
BANNED	S0		Benazepril	Antihypertensive	Lotensin, Lotrel (with amlodipine).		
BANNED	S5		Bendroflumethiazide	Diuretic	Naturetin, Corzide.		
BANNED	S0		Benorilate	NSAID	Lacks FDA approval.		
BANNED	S0		Benoxaprofen	NSAID	Lacks FDA approval.		
CONTROLLED	S7	C	Benoxinate(Oxybucaine, Oxybuprocaine).	Local anesthetic	Altafluor Benox [with fluorescein stain].		
BANNED	S0		Benperidol	Antipsychotic	Lacks FDA approval.		
BANNED	S0		Bentazepam	Anxiolytic	Lacks FDA approval.		
CONTROLLED	S7	B	Benzocaine	Local anesthetic	Orajel, Anbesol, Lanacane.		
BANNED	S0		Benzoctamine	Sedative/Anxiolytic	Lacks FDA approval.		
BANNED	S0		Benzonatate	Antitussive	Tessalon.		
BANNED	S0		Benzphetamine	Stimulant	Generic. DEA Schedule III.		
BANNED	S0		Benzquinamide	Antipsychotic/Anti-emetic	Discontinued, no FDA-approved product commercially available.		
BANNED	S0		Benzthiazide	Diuretic	Discontinued, no FDA-approved product commercially available.		
CONTROLLED	S7	A	Benztropine	Anticholinergic	Generic.		
BANNED	S0		Benzydamine	NSAID	Lacks FDA approval.		
BANNED	S0		Benzylpiperazine (BZP)	Stimulant	Lacks FDA approval.		
BANNED	S0		Bepridil	Antihypertensive	Lacks FDA approval.		
CONTROLLED	S7	C	Betamethasone	Corticosteroid	Betavet, Celestone		0.2 ng/mL in urine.
BANNED	S0		Betaprodine	Opioid Analgesic	Lacks FDA approval. DEA Schedule I.		
BANNED	S0		Betaxolol	Antihypertensive	Betoptic.		
CONTROLLED	S7	C	Bethanechol	Cholinergic	Duovoid.		
BANNED	S0		Bethanidine (Betanidine)	Antihypertensive	Discontinued, no FDA-approved product commercially available.		
BANNED	S4		Bimagrumab	Anabolic	Lacks FDA approval (Orphan drug designation withdrawn).		
BANNED	S0		Biperiden	Anticholinergic	Discontinued, no FDA-approved product commercially available.		
BANNED	S0		Biphenamine	Local anesthetic	Lacks FDA approval.		
BANNED	S0		Biprsoprolol	Antihypertensive	Ziac [with hydrochlorothiazide].		
BANNED	S0		Biriperone (Centbutindole)	Antipsychotic	Lacks FDA approval.		
BANNED	S0		Bitolterol	Beta-2 agonist-bronchodilator	Discontinued, no FDA-approved product commercially available.		
BANNED	S1		Bolandiol (estr-4-ene3β, 17β-diol).	Anabolic	Lacks FDA approval.		
BANNED	S1		Bolasterone (7α, 17α-dimethyltestosterone).	Anabolic	Lacks FDA approval. DEA Schedule III.		
BANNED	S1		Boldenone	Anabolic	Equipoise. DEA Schedule III		Threshold: 0.015 mcg free and conjugated boldenone per mL in urine in male horses (other than geldings).
BANNED	S1		Boldione	Anabolic	Lacks FDA approval. DEA Schedule III.		
BANNED	S6		Botulinum toxin	Neurotoxin	Botox, Dysport, Jeuveau.		
BANNED	S0		Brallobarbital	Barbiturate	Lacks FDA approval.		
CONTROLLED	S7	B	Bretylium	Antiarrhythmic	Generic.		
BANNED	S0		Brimonidine	Antihypertensive	Alphagan P, Qoliana, Lumify.		
CONTROLLED	S7	B	Brinzolamide	Carbonic Anhydrase Inhibitor	Simbrinza, Azopt.		
BANNED	S0		Bromantan	Psychostimulant	Lacks FDA approval.		
BANNED	S0		Bromazepam	Anxiolytic	Lacks FDA approval. DEA Schedule IV.		
CONTROLLED	S7	A	Bromfenac	NSAID	Prolensa, Bromsite.		
BANNED	S0		Bromhexine	Mucolytic	Lacks FDA approval.		
BANNED	S0		Bromisovalum	Sedative/Hypnotic	Lacks FDA approval.		
BANNED	S0		Bromocriptine	Anticholinergic	Parlodel, Cycloset.		

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CONTROLLED	S7	B	Bromodiphenhydramine	Antihistamine	Ambodryl, Ambrodil.		
BANNED	S0		Bromophenethylamine	Psychedelic	Lacks FDA approval.		
BANNED	S0		Bromperidol	Antipsychotic	Lacks FDA approval.		
CONTROLLED	S7	B	Brompheniramine	Antihistamine	Dimetapp.		
BANNED	S0		Brotizolam	Sedative/Hypnotic	Lacks FDA approval.		
BANNED	S0		Bucetin	NSAID	Lacks FDA approval.		
BANNED	S0		Buclizine	Antihistamine/Anti-emetic	Discontinued, no FDA-approved product commercially available.		
CONTROLLED	S7	C	Budesonide	Corticosteroid	Uceris, Entocort, Tarpeyo, Ortikos, Pulmicor Flexhaler, Symbicort (with formoterol), Rhinocort Allergy.		
BANNED	S0		Bufexamac	NSAID	Lacks FDA approval.		
BANNED	S0		Buflomedil	Vasodilator	Lacks FDA approval.		
BANNED	S0	(x)	Bufotenine	Hallucinogen	Lacks FDA approval. DEA Schedule I.		10 mcg/mL Total (free and conjugated) in urine,
BANNED	S5		Bumetanide	Diuretic	Bumex.		
BANNED	S0		Bunitrolol	Vasodilator	Lacks FDA approval.		
BANNED	S0		Bunolol	Anti-hypertensive	Betagan.		
BANNED	S0		Buphenine (nylidrin)	Vasodilator	Lacks FDA approval.		
CONTROLLED	S7	B	Bupivacaine	Local anesthetic	Marcaine, Sensorcaine, Exparel.		
BANNED	S0		Bupranolol	Antihypertensive	Lacks FDA approval.		
CONTROLLED	S7	A	Buprenorphine	Analgesic	Simbadol, Zorbium, Butrans, Sublocade, Belbuca, Buprenex, Zubsolv. DEA Schedule III.		
BANNED	S0		Bupropion	Antidepressant	Wellbutrin, Zyban.		
BANNED	S4		Buserelin	Gonadotropin Releasing Hormone.	Lacks FDA approval.		
CONTROLLED	S7	A	Buspirone	Anxiolytic	Generic.		
BANNED	S0		Butabarbital (Secbutobarbitone)	Barbiturate	Discontinued, no FDA-approved product commercially available. DEA Schedule III.		
BANNED	S0		Butacaine	Local anesthetic	Lacks FDA approval.		
BANNED	S0		Butalbital (Talbutal)	Barbiturate	Esgic, Fioricet. DEA Schedule III.		
CONTROLLED	S7	C	Butamben (butyl aminobenzoate).	Local anesthetic	Cetacaine.		
BANNED	S0		Butanilicaine	Local anesthetic	Lacks FDA approval.		
BANNED	S0		Butaperazine	Antipsychotic	Lacks FDA approval.		
BANNED	S0		Butoctamide	Serotonin release	Lacks FDA approval.		
BANNED	S0		Butofilolol	Antihypertensive	Lacks FDA approval.		
CONTROLLED	S7	B	Butorphanol	Sedative	Torbugesic, Tobutrol, Stadol, Dolorex. DEA Schedule IV.	Detection Time: 72 hrs. 0.1 mg/kg single IV dose (6 horses).	1 ng/mL in hydrolyzed urine or 0.01 ng/mL plasma or serum.
BANNED	S0		Butoxycaine	Local anesthetic	Lacks FDA approval.		
BANNED	S0		Cafedrine	Cardiac Stimulant	Lacks FDA approval.		
CONTROLLED	S7	B (x)	Caffeine	Stimulant	Cafcit, Migergot (with ergotamine), combined with NSAIDs in OTC formulations. Recognized by IFHA as Feed Contaminant.		50 ng/mL (free and conjugated) in urine.
BANNED	S0		Calcium dobesilate	Vasoprotective	Lacks FDA approval.		
BANNED	S1		Calusterone (*Methosarb, Riedemil, NSC–88536, U–22550).*	Anabolic	Lacks FDA approval. (*NSC–88536, U–22550)* DEA Schedule III.		
BANNED	S0		Camazepam	Anxiolytic	Lacks FDA approval. DEA Schedule IV.		
CONTROLLED	S7	C	Camphor	Local anesthetic	Vicks VapoRub.		
BANNED	S0		Candesartan	Antihypertensive	Atacand.		
CONTROLLED	S7	B	Cannabidiol (CBD)	Analgesic/anti-inflammatory	Epidiolex.		

BANNED	S0	(x)	Cannabinoids (natural, synthetic and other cannabimimetics).	Psychotropic	Lack FDA approval.		
BANNED	S5		Canrenone	Diuretic	Lacks FDA approval.		
BANNED	S1		Capromorelin	Anabolic	Entyce, Elura.		
CONTROLLED	S7	B	Capsaicin	Topical analgesic/irritant	Zostrix, Salonpas Hot.		
BANNED	S0		Captodiame (captodiamine)	Antihistamine	Lacks FDA approval.		
BANNED	S0		Captopril	Antihypertensive	Generic.		
BANNED	S0		Caramiphen	Anticholinergic	Lacks FDA approval.		
BANNED	S0		Carazolol	Antihypertensive	Lacks FDA approval.		
CONTROLLED	S7	B	Carbachol	Cholinergic	Miostat.		
CONTROLLED	S7	B	Carbamazepine	Anticonvulsant	Tegretol, Carbatrol, Equetro, Teril.		
BANNED	S2		Carbamylated EPO (CEPO)	Erythropoiesi			
BANNED	S0		Carbazochrome (Adrenochrome monosemicarbazone).	Hemostatic	Lacks FDA approval.		
BANNED	S0		Carbetapentane (pentoxyverine)	Antitussive	Lacks FDA approval.		
BANNED	S0		Carbidopa	Decarboxylase Inhibitor	Lodosyn; Stalevo, Rytary, Duopa, Dhivy, Sinemet (all with levodopa).		
BANNED	S0		Carbimazole	Anti-hyperthyroidism	Lacks FDA approval.		
CONTROLLED	S7	B	Carbinoxamine	Antihistamine	Karbinal ER.		
BANNED	S0		Carbocysteine	Mucolytic	Lacks FDA approval.		
BANNED	S0		Carbromal	Sedative/Hypnotic	Lacks FDA approval.		
BANNED	S0		Carbuterol	Beta-2 agonist-bronchodilator	Lacks FDA approval.		
BANNED	S1		Cardarine (GW–501, GW516, GSK–516).	Selective Androgen Receptor Modulator (SARM).	Lacks FDA approval.		
BANNED	S0		Carfentanil	Opioid Analgesic	Lacks FDA approval. DEA Schedule II.		
CONTROLLED	S7	B	Carisoprodol	Muscle relaxant	Soma. DEA Schedule IV.		
BANNED	S0		Carphedon	Psychostimulant	Lacks FDA approval.		
BANNED	S0		Carphenazine	Antipsychotic	Discontinued, no FDA-approved product commercially available.		
BANNED	S0		Carpipramine	Antipsychotic	Lacks FDA approval.		
CONTROLLED	S7	B	Carprofen	NSAID	Rimadyl.		
BANNED	S3		Carteolol	Antihypertensive	Generic.		
CONTROLLED	S7	B	Carticaine (see Articaine)	Local anesthetic	Septocaine, Orbloc.		
BANNED	S0		Carvedilol	Antihypertensive	Coreg.		
BANNED	S0		Cathinone	Stimulant	Lacks FDA approval. DEA Schedule I.		
CONTROLLED	S7	B	Celecoxib	NSAID	Celebrex.		
BANNED	S0		Celiprolol	Anti-hypertensive	Lacks FDA approval.		
BANNED	S0		Cephaeline	Emetic, plant alkaloid	Lacks FDA approval.		
CONTROLLED	S7	C	Cetirizine	Antihistamine	Quzyttir, Zerviate, Zyrtec	Detection Time: 48 hours. 0.4 mg/kg twice daily for 5 doses. (9 horses).	3 ng/mL in serum or plasma.
BANNED	S0		Chlomethiazole	Anticonvulsant	Lacks FDA approval.		
BANNED	S0		Chloral (cloral) betaine	Sedative/Hypnotic	Lacks FDA approval. DEA Schedule IV.		
BANNED	S0		Chloral hydrate	Sedative	Lacks FDA approval. DEA Schedule IV.		
BANNED	S0		Chloralose (AlphaChloralose)	Anxiolytic	Lacks FDA approval.		
BANNED	S0		Chlorcyclizine	Antihistamine	Lacks FDA approval.		
BANNED	S0		Chlordiazepoxide	Anxiolytic	Librium; Librax (with chlordiazepoxide hydrochloride). DEA Schedule IV.		
BANNED	S0		Chlormadinone acetate	Reproductive hormone	Lacks FDA approval.		
BANNED	S0		Chlormerodrin	Diuretic	Discontinued, no FDA-approved product commercially available.		
BANNED	S0		Chlormezanone	Muscle relaxant	Discontinued, no FDA-approved product commercially available.		
BANNED	S0		Chloroform	Anesthetic	Lacks FDA approval.		
BANNED	S0		Chlorophenylpiperazine	Psychoactive	Lacks FDA approval.		
CONTROLLED	S7	A	Chloroprocaine	Local anesthetic	Nesacaine.		
BANNED	S0		Chloropyramine	Antihistamine	Lacks FDA approval.		
BANNED	S5		Chlorothiazide	Diuretic	Diuril.		
BANNED	S0		Chlorphenesin	Muscle relaxant	Discontinued, no FDA-approved product commercially available.		

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CONTROLLED	S7	B	Chlorpheniramine	Antihistamine	ChlorTrimeton.		
BANNED	S0		Chlorphenoxamine	Antihistamine	Lacks FDA approval.		
BANNED	S0		Chlorphentermine	Stimulant	Discontinued, no FDA-approved product commercially available.		
BANNED	S0		Chlorproethazine	Muscle relaxant	Lacks FDA approval.		
BANNED	S0		Chlorpromazine	Sedative	Generic.		
BANNED	S0		Chlorpropamide	Hypoglycemic	Discontinued, no FDA-approved product commercially available.		
BANNED	S0		Chlorprothixene	Antipsychotic	Discontinued, no FDA-approved product commercially available.		
BANNED	S5		Chlorthalidone	Diuretic	Thalitone.		
BANNED	S0		Chlorthenoxazine	NSAID	Lacks FDA approval.		
BANNED	S5		Chlorthiazide (Chlorothiazide)	Diuretic	Diuril.		
CONTROLLED	S7	B	Chlorzoxazone	Muscle relaxant	Generic.		
CONTROLLED—fillies and mares.	S7	B	Chorionic Gonadotropin (CG)	Reproductive hormone	Pregnyl—biologic, does not require FDA approval.		
BANNED—intact males and geldings.	S2		Chorionic Gonadotropin (CG)	Reproductive hormone	Pregnyl.		
CONTROLLED	S7	C	Ciclesonide	Corticosteroid	Aservo EquiHaler, Alvesco	Detection Time: 48 hours. 5.5 mg/day x 5 days, then 4.1 mg/day x 5 days via inhalation (Aservo Equihaler). (6 horses).	
BANNED	S0		Cicloprofen	NSAID	Lacks FDA approval.		
BANNED	S0		Cilazapril	Anti-hypertensive	Lacks FDA approval.		
CONTROLLED	S7	B	Cilostazol	Vasodilator	Pletal.		
BANNED	S0		Cimaterol	Beta-2 agonist-bronchodilator	Lacks FDA approval.		
BANNED	S3		Cimbuterol	Beta-2 agonist-bronchodilator	Lacks FDA approval.		
CONTROLLED	S7	C	Cimetidine	Anti-ulcer	Tagamet	Restricted administration time: 24 hours. 20 mg/kg orally twice daily for a total of 7 doses (9 horses).	400 ng/mL in serum or plasma.
BANNED	S0		Cinchocaine	Local anesthetic	Lacks FDA approval.		
BANNED	S0		Cinchophen	NSAID	Lacks FDA approval.		
BANNED	S0		Cinnarizine	Antihistamine	Lacks FDA approval.		
BANNED	S0		Citalopram	Antidepressant	Celexa.		
BANNED	S0		Clanobutin	Cholerectic	Lacks FDA approval.		
CONTROLLED	S7	B	Clemastine	Antihistamine	Tavist, Dayhist.		
BANNED	S0		Clemizole	Antihistamine	Lacks FDA approval.		
CONTROLLED	S7	B	Clenbuterol	Beta-2 agonist-bronchodilator	Ventipulmin	Treated horse Vet Listed for minimum 21 days after last treatment. Official Workout and Clearance Testing (blood and urine) required to re-establish eligibility to race. Dosing specification: 0.8 mcg/kg orally twice daily for up to 30 days total in a 6 month period.	
BANNED	S3		Clenpenterol	Beta-2 agonist-bronchodilator	Lacks FDA approval.		
BANNED	S0		Clibucaine	Local anesthetic	Lacks FDA approval.		
BANNED	S0		Clidinium	Anticholinergic	No FDA-approved produc.		
BANNED	S0		Clobazam	Anxiolytic	Sympazan, Onfi. DEA Schedule IV.		
BANNED	S0		Clobenzorex	Stimulant	Lacks FDA approval.		

CONTROLLED	S7	C	Clobetasol	Corticosteroid	Olux, Cormax, Embeline, Impoyz, Clobex, Impeklo.		
CONTROLLED	S7	C	Clocortolone	Corticosteroid	Cloderm.		
BANNED	S6		Clodronate (Clodronic acid)	Bisphosphonate	OsPhos.		
BANNED	S5		Clofenamid	Carbonic Anhydrase Inhibitor	Lacks FDA approval.		
BANNED	S0		Clomethiazole (Chlormethiazole)	Sedative/Hypnotic	Lacks FDA approval.		
BANNED	S4		Clomifene	Induce ovulation	Generic.		
BANNED	S0		Clomipramine	Antidepressant	Clomicalm.		
BANNED	S0		Clonazepam	Anxiolytic	Klonopin. DEA Schedule IV.		
CONTROLLED	S7	A	Clonidine	Antihypertensive/Analgesic	Catapres-TTS.		
BANNED	S0		Clonixin	NSAID	Lacks FDA approval.		
BANNED	S5		Clopamide	Diuretic	Lacks FDA approval.		
BANNED	S0		Cloranolol	Antihypertensive	Lacks FDA approval.		
BANNED	S0		Clorazepate	Anxiolytic	Lacks FDA approval. DEA Schedule IV.		
BANNED	S0		Clormecaine	Local anesthetic	Lacks FDA approval.		
BANNED	S0		Clorprenaline	Bronchodilator	Lacks FDA approval.		
BANNED	S1		Clostebol	Anabolic	Lacks FDA approval. DEA Schedule III.		
BANNED	S0		Clotiapine	Antipsychotic	Lacks FDA approval.		
BANNED	S0		Clotiazepam	Anxiolytic	Lacks FDA approval.		
BANNED	S0		Cloxazolam	Anxiolytic	Lacks FDA approval. DEA Schedule IV.		
BANNED	S0		Clozapine	Antipsychotic	Clozaril, Versacloz.		
BANNED	S2		CNTO 530	Erythropoiesis	Lacks FDA approval.		
BANNED	S2		Cobalt Salts (e.g., $CoCl_2$)	Erythropoiesi			Threshold: 0.1 mcg/mL total Cobalt in urine OR 0.025 mcg/mL total (free and protein bound)/mL in serum or plasma.
BANNED	S6		Cobratoxin, alpha	Neurotoxin	Lacks FDA approval.		
BANNED	S0		Cocaine (metabolite: benzoylecgonine).	Stimulant	Goprelto, Numbrino. DEA Schedule II.		
BANNED	S0		Codeine	Opioid Analgesic	Generic (DEA Schedule II or in combination with NSAIDs, caffeine and other drugs (DEA Schedule III).		
CONTROLLED	S7	B (x)	Colchicine	Anti-gout	Colcrys, Mitigare.		
BANNED	S0		Conorphone	Opioid Analgesic	Lacks FDA approval.		
BANNED	S2		Corticorelin	Corticosteroid stimulation	Approved Oprhan Drug.		
CONTROLLED	S7	B	Corticotrophin	Corticosteroid stimulation	ACTH–80, Acthar Gel.		
BANNED	S0		Cortivazol	Glucocorticoid	Lacks FDA approval.		
BANNED	S0		Cotinine (Cotinine is a metabolite of nicotine. If there is credible evidence that the presence of cotinine in a horse's sample is a consequence of nicotine exposure, the classification of cotinine may be revised to S7(A).).	Psychoactive/Anxiolytic	Lacks FDA approval.		
CONTROLLED	S7	C	Cromolyn (Cromoglycate)	Mast Cell Stabilizer	Gastrocrom.		
BANNED	S0		Cropropamide	Respiratory Stimulant	Lacks FDA approval.		
BANNED	S0		Crotethamide	Respiratory Stimulant	Lacks FDA approval.		
BANNED	S0		Cyamemazine	Antipsychotic	Lacks FDA approval.		
BANNED	S0		Cyclandelate	Vasodilator	Lacks FDA approval.		
BANNED	S0		Cyclizine	Antihistamine	Discontinued, no FDA-approved product commercially available.		
BANNED	S0		Cyclobarbital	Barbiturate	Lacks FDA approval.		
CONTROLLED	S7	B	Cyclobenzaprine	Muscle relaxant	Flexeril, Amrix.		
BANNED	S4		Cyclofenil	Selective Estrogen Receptor Modulator (SERM).	Lacks FDA approval.		
BANNED	S0		Cycloguanil	Antimalarial	Lacks FDA approval.		
BANNED	S0		Cyclomethycaine	Local anesthetic	Lacks FDA approval.		
BANNED	S0		Cyclopentamine	Vasoconstrictor	Lacks FDA approval.		

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CONTROLLED	S7		Cyclopentolate	Mydriatic	Akpentolate, Cyclogyl, Pentolair, Cyclomydril.		
BANNED	S0		Cyclophenil	Selective Estrogen Receptor Modulator (SERM).	Lacks FDA approval.		
BANNED	S0		Cyclothiazide	Diuretic	Discontinued, no FDA-approved product commercially available.		
BANNED	S0		Cycrimine	Anticholinergic	Discontinued, no FDA-approved product commercially available.		
CONTROLLED	S7	B	Cyproheptadine	Antihistamine	Periactin.		
BANNED	S4		Dalantercept (ACE–041)	Anti-neoplastic	Lacks FDA approval.		
BANNED	S1		Danazol	Anabolic	Generic.		
CONTROLLED	S7	C	Dantrolene	Muscle relaxant	Dantrium	Detection Time: 48 hrs. 500 mg orally once daily for 3 days. (12 horses).	3 ng/mL of 5-hydroxydantrolene in urine; 0.1 ng/mL in serum or plasma as 3'-hydroxydantrolene.
BANNED	S2		Darbepoetin (dEPO)	Erythropoiesis	Aranesp.		
BANNED	S0		Decamethonium	Muscle relaxant	Discontinued, no FDA-approved product commercially available.		
BANNED	S1		Dehydrochloromethyltestosterone	Anabolic	Turinabol. DEA Schedule III.		
BANNED	S0		Delmadinone acetate	Reproductive hormone	Lacks FDA approval.		
BANNED	S0		Delorazepam	Anxiolytic	Lacks FDA approval. DEA Schedule IV.		
BANNED	S0		Dembroxol (Dembrexine)	Mucolytic	Lacks FDA approval.		
BANNED	S0	(x)	Demecolcine	Anti-neoplastic/ Immunomodulator.	Lacks FDA approval.		
BANNED	S0		Demoxepam	Anxiolytic	Lacks FDA approval.		
BANNED	S0		Deoxycorticosterone	Minerlocorticoid	Lacks FDA approval.		
BANNED	S0		Deptropine	Antihistamine	Lacks FDA approval.		
CONTROLLED	S7	B	Deracoxib	NSAID	Deramaxx.		
BANNED	S6		Dermorphin	Opioid Receptor Agonist	Lacks FDA approval.		
BANNED	S0		Deserpidine	Antihypertensive	Discontinued, no FDA-approved product commercially available.		
BANNED	S0		Desipramine	Antidepressant	Norpramin.		
CONTROLLED—fillies and Mares.	S7	B	Deslorelin	Induce ovulation	Ovuplant, SucroMate, Suprelorin.		
BANNED—intact males and geldings.	S4		Deslorelin	Reproductive hormone	Ovuplant, SucroMate, Suprelorin.		
BANNED	S5		Desmopressin	Anti-diuretic	DDAVP, Nocdurna.		
CONTROLLED	S7	C	Desonide	Corticosteroid	Verdeso, Desowen.		
CONTROLLED	S7	C	Desoximethasone (desoxymethasone, desoximetasone).	Corticosteroid	Topicor.		
BANNED	S1		Desoxymethyltestosterone	Anabolic	Lacks FDA approval. DEA Schedule III.		
BANNED	S1		Desoxyvinyl-testosterone	Anabolic	Lacks FDA approval.		
CONTROLLED	S7	B	Detomidine	Sedative/Analgesic	Dormosedan	Detection Time: 48 hrs. 0.02 mg/kg single IV dose (10 horses).	2 ng/mL 3-carboxydetomidine in urine; 0.02 ng/mL in serum or plasma.
CONTROLLED	S7	C	Dexamethasone	Corticosteroid	Azium, Dexasone	Detection Time: 72 hours. Single 20 mg oral dose (20 horses).	0.2 ng/mL in urine.
CONTROLLED	S7	C	Dexamethasone Sodium phosphate.	Corticosteroid	Generic	Detection Time: 72 hours. 0.06 mg/kg single IV dose (6 horses).	
CONTROLLED	S7	B	Dextromethorphan	Antitussive	Delsym, Robitussin.		

BANNED	S0	Dextromoramide	Opioid Analgesic	Lacks FDA approval. DEA Schedule I.			
BANNED	S0	Dextropropoxyphene	Opioid Analgesic	Discontinued, no FDA-approved product commercially available. DEA Schedule IV.			
BANNED	S0	Dextrorphan (Dextrorphan may be present as a metabolite of dextromethorphan. If there is credible evidence that the presence of dextrorphan in the horse's sample is the consequence of dextromethorphan administration, the classification of dextrorphan may be revised to S7(A).).	Psychoactive/Antitussive	Lacks FDA approval.			
BANNED	S0	Dezocine	Opioid Analgesic	Discontinued, no FDA-approved product commercially available.			
BANNED	S0	Diacerein	Anti-osteoarthritic	Lacks FDA approval.			
BANNED	S0	Diamorphine (diacetylmorphine)	Opioid Analgesic	Lacks FDA approval. DEA Schedule I.			
CONTROLLED	S7	Diazepam	Anxiolytic	Valium. DEA Schedule IV.	B		
BANNED	S0	Diazoxide	Antihypertensive/Hyperglycemic	Proglycem.			
BANNED	S0	Dibenzepin	Antidepressant	Lacks FDA approval.			
BANNED	S0	Dibucaine	Local anesthetic	Discontinued, no FDA-approved product commercially available.			
BANNED	S0	Dichlorisone	Corticosteroid	Lacks FDA approval.			
BANNED	S0	Dichloroacetate	Anti-neoplastic	Lacks FDA approval.			
CONTROLLED	S7	Dichlorphenamide	Carbonic Anhydrase Inhibitor	Keveyis.	C		
CONTROLLED	S7	Diclofenac	NSAID	Surpass, Voltaren	C		
BANNED	S0	Dicumarol	Anticoagulant	Discontinued, no FDA-approved product commercially available.			
BANNED	S0	Diethylpropion	Stimulant	Lacks FDA approval. DEA Schedule IV.			
BANNED	S0	Diethylthiambutene	Opioid Analgesic	Lacks FDA approval. DEA Schedule I.			
BANNED	S0	Diethyltryptamine (DET)	Hallucinogen	Lacks FDA approval.			
CONTROLLED	S7	Diflorasone	Corticosteroid	Florone.	C		
BANNED	S0	Diflucortolone	Corticosteroid	Lacks FDA approval.			
BANNED	S0	Diflunisal	NSAID	Generic.			
BANNED	S0	Digitoxin	Antiarrhythmic	Discontinued, no FDA-approved product commercially available.			
BANNED	S0	Digoxin	Antiarrhythmic	Lanoxin.	B		
BANNED	S0	Dihydrocodeine	Opioid Analgesic	Trezix (with acetaminophen and caffeine) DEA Schedule III.			
BANNED	S0	Dihydrocodeinone	Opioid Analgesic	Lacks FDA approval.	B		
CONTROLLED	S7	Dihydroergotamine mesylate	Ergot alkaloid	Migranal, Trudhesa.			
BANNED	S0	Dihydromorphine	Opioid Analgesic	Lacks FDA approval. DEA Schedule I.			
BANNED	S1	Dihydrotestosterone (17β-hydroxy-5a androstan-3-one, Androstanolone).	Anabolic	Anabolex, Andractimm, Pesomax, Stanolone. DEA Schedule III.			
BANNED	S0	Diisopropylamine	Vasodilator	Lacks FDA approval.			
BANNED	S0	Diltiazem	Antihypertensive	Cardizem CD, Taztia XT, Tiazac.			
BANNED	S0	Dimefline	Respiratory Stimulant	Lacks FDA approval.			
BANNED	S0	Dimethindene	Antihistamine	Lacks FDA approval.			
BANNED	S0	Dimethisoquin (quinocaine)	Local anesthetic	Lacks FDA approval.			
BANNED	S0	Dimethylamphetamine	Stimulant	Lacks FDA approval.			
BANNED	S0	Dimethylphenidate	Stimulant	Lacks FDA approval.			50 ng/mL in urine.

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CONTROLLED	S7	C	Dimethylsulfoxide (DMSO)	NSAID	Domoso	Detection Time: 48 hrs. 70 mL 90% DMSO in 500 mL LRS IV single administration (30 horses).	15 mcg/mL in urine or 1,000 ng/mL in serum or plasma. Note: The detection of more than one NSAID in a horse's post-Race or Post-Official Workout blood sample constitutes a Stacking Violation.
BANNED	S0	(x)	Dimethyltryptamine (DMT)	Hallucinogen	Lacks FDA approval. DEA Schedule I.		10 mcg/mL total (free and conjugated) in urine.
BANNED	S0		Diphenadione	Anticoagulant	No FDA-approved product. Rodenticide.		
CONTROLLED	S7	B	Diphenhydramine	Antihistamine	Benadryl.		
CONTROLLED	S7	B	Diphenoxylate	Anti-diarrheal	DEA Schedule II. Lomotil (with atropine), DEA Schedule II.		
BANNED	S0		Diphenylpyraline	Antihistamine	Discontinued, no FDA-approved product commercially available.		
BANNED	S0		Dipipanone	Opioid Analgesic	Lacks FDA approval. DEA Schedule I.		
BANNED	S0		Diprenorphine	Narcotic antagonist	M50–50.		
BANNED	S0		Diprophylline	Bronchodilator	Lacks FDA approval.		
CONTROLLED	S7	B	Dipyridamole	Platelet inhibitor	Persantine.		
CONTROLLED	S7	C	Dipyrone	NSAID/Anti-pyretic	Zimeta	Detection Time: 72 hrs. 30 mg/kg single IV dose (10 horses).	1,000 ng/mL of 4-methylaminoantipyrine in urine. Note: The detection of more than one NSAID in a horse's post-Race or Post-Official Workout blood sample constitutes a Stacking Violation.
CONTROLLED	S7	B	Disopyramide	Antiarrhythmic	Norpace, Rythmodan.		
BANNED	S0		Disulfiram	Alcohol antagonist	Generic.		
BANNED	S0		Divalproex	Anticonvulsant	Depakote.		
BANNED	S0		Dixyrazine	Antipsychotic	Lacks FDA approval.		
CONTROLLED	S7	B	Dobutamine	Beta-1 agonist	Generic.		
BANNED	S4		Domagrozumab	Anabolic	Lacks FDA approval.		
BANNED	S0		Donepezil	Behavior and Cognitive Modifier	Adilarity, Aricep.		
CONTROLLED	S7	A	Dopamine	Neurotransmitter	Generic.		
BANNED	S0		Dopexamine	Vasodilator	Lacks FDA approval.		
CONTROLLED	S7	B	Dorzolamide	Carbonic Anhydrase Inhibitor	Cosop.		
BANNED	S0		Dothiepin	Antidepressant	Lacks FDA approval.		
BANNED	S0		Doxacurium	Muscle relaxant	Discontinued, no FDA-approved product commercially available.		
CONTROLLED	S7	A	Doxapram	Respiratory Stimulant	Dopram, Respiram.		
BANNED	S0		Doxazosin	Antihypertensive	Cardura.		
BANNED	S0		Doxefazepam	Anxiolytic	Lacks FDA approval.		
CONTROLLED	S7	A	Doxepin	Antidepressant	Generic.		
CONTROLLED	S7	B	Doxylamine	Antihistamine	Unisom.		
BANNED	S1		Dromostanolone (drostanolone)	Anabolic	Lacks FDA approval.		
BANNED	S0		Droperidol	Antipsychotic	Inapsine.		
BANNED	S0		Drospirenone	Reproductive hormone	Slynd, Nextstellis, Angeliq, Lo-Zumandimine, Loryna, elamisa, Nikki, Yaz.		
BANNED	S0		Duloxetine	Antidepressant	Cymbalta, Drizalma.		
CONTROLLED	S7	C	Dyclonine	Topical anesthetic	Dyclopro.		
BANNED	S0		Dyphylline (Diphylline)	Antipsychotic/Anti-emetic	Discontinued, no FDA-approved product commercially available.		

BANNED	S0		Edrophonium	Muscle strengthener	Discontinued, no FDA-approved product commercially available.		
BANNED	S2		Efaproxiral (RSR13)	Hemoglobin modifier	FDA orphan drug.		
BANNED	S0		Eletriptan	Selective Serotonin Receptor Agonist.	Relpax.		
BANNED	S0		Eltenac	NSAID	Lacks FDA approval.		
BANNED	S0		Embramine	Antihistamine	Lacks FDA approval.		
BANNED	S0		Embutramide	Opioid Analgesic	Lacks FDA approval. DEA Schedule III.		
BANNED	S0		Emepronium	Antispasmodic	Lacks FDA approval.		
BANNED	S0		Emidonol	Anti-inflammatory	Lacks FDA approval.		
BANNED	S0		Enalapril (metabolite enaloprilat)	Angiotensin-converting enzyme inhibitor.	Vasotec.		
BANNED	S0		Enciprazine	Anxiolytic/Antipsychotic	Lacks FDA approval.		
CONTROLLED	S7	A	Ephedrine	Stimulant	Akovaz, Corphedra, Emerphed.		
BANNED	S6		Epibatidine	Analgesic	Lacks FDA approval.		
BANNED	S1		Epi-dihydrotestosterone	Anabolic	Lacks FDA approval. DEA Schedule III.		
CONTROLLED	S7	A	Epinephrine	Stimulant	Adrenalin, Epipen, Adrenaclick, Auvi-Q, Symjepi, Primatene Mist.		
BANNED	S1		Epitestosterone	Anabolic	Lacks FDA approval. DEA Schedule III.		
BANNED	S0		Eplerenone	Antihypertensive	Inspra.		
BANNED	S2		EPO-based constructs (e.g. EPO-Fc).	Erythropoiesis	Lacks FDA approval.		
BANNED	S2		EPO-mimetic agents (e.g. CNTO–530, peginesatide).	Erythropoiesis	.		
BANNED	S0		Ergonovine	Ergot alkaloid	Lacks FDA approval.		
BANNED	S0	(x)	Ergotamine	Ergot alkaloid	Ergomar, Migergot (with caffeine).		
BANNED	S0		Erythritol tetranitrate	Vasodilator	Lacks FDA approval.		
BANNED	S2		Erythropoietin (EPO)	Erythropoiesis.			
BANNED	S0		Esmolol	Antihypertensive	Brevibloc.		
CONTROLLED	S7	C	Esomeprazole	Anti-ulcer	Nexium.		
BANNED	S0		Estazolam	Sedative/Anticonvulsant	Prosom. DE Schedule IV.		
CONTROLLED—in male horses (other than geldings).	S7	B	Estranediol	Estroge	.....	.....	Threshold: 0.045 mcg/mL total (free and conjugated) 5α-estrane-3β, 17α-diol per millilitre in urine when, at screening, the total 5α-estrane-3β, 17α-diol exceeds the total 5,10 estrene-3β,17α-diol in urine.
BANNED	S0		Eszopiclone	Hypnotic	Lunesta.		
BANNED	S0		Etafedrine	Bronchodilator	Lacks FDA approval.		
BANNED	S0		Etamiphylline	Respiratory Stimulant	Lacks FDA approval.		
BANNED	S0		Etamivan (Ethamivan)	Respiratory Stimulant	Lacks FDA approval.		
CONTROLLED	S7	B	Etanercept	NSAID	Enbrel.		
BANNED	S5		Ethacrynic acid (Etacrynic acid)	Diuretic	Edecrin.		
BANNED	S0		Ethamivan	Respiratory Stimulant	Lacks FDA approval.		
BANNED	S0		Ethamsylate	Antihemorrhagic	Lacks FDA approval.		
BANNED	S0		Ethanol	Depressant	Grain alcohol, Everclear.		
BANNED	S0		Ethaverine	Vasodilator	Lacks FDA approval.		
BANNED	S0		Ethchlorvynol	Sedative/Hypnotic	Discontinued, no FDA-approved product commercially available. DEA Schedule IV.		
BANNED	S0		Ethiazide	Diuretic	Lacks FDA approval.		
BANNED	S0		Ethinamate	Sedative/Hypnotic	Discontinued, no FDA-approved product commercially available. DEA Schedule IV.		
BANNED	S0		Ethinylestradiol	Reproductive hormone	Lacks FDA approval.		
BANNED	S0		Ethoheptazine	Analgesic	Lacks FDA approval.		
BANNED	S0		Ethopropazine	Anticholinergic	Discontinued, no FDA-approved product commercially available.		
BANNED	S0		Ethosuximide	Anticonvulsant	Zarontin.		

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BANNED	S0		Ethotoin	Anticonvulsant	Discontinued, no FDA-approved product commercially available.		
BANNED	S0		Ethoxzolamide	Carbonic Anhydrase Inhibitor	Discontinued, no FDA-approved product commercially available.		
BANNED	S0		Ethyl isobutrazine	Sedative	Lacks FDA approval.		
BANNED	S0		Ethyl Loflazepate	Sedative Anxiolytic	Discontinued, no FDA-approved product commercially available. DEA Schedule IV.		
CONTROLLED	S7	C	Ethylaminobenzoate (Benzocaine).	Local anesthetic	Orajel.		
BANNED	S0		Ethylamphetamine	Stimulant	Lacks FDA approval.		
BANNED	S1		Ethylestrenol	Anabolic	Discontinued, no FDA-approved product commercially available. DEA Schedule III.		
BANNED	S0		Ethylmorphine	Opioid Analgesic	Lacks FDA approval. DEA Schedule II.		
BANNED	S0		Ethylnorepinephrine	Stimulant	Lacks FDA approval.		
BANNED	S0		Ethylphenidate	Stimulant	Lacks FDA approval.		
BANNED	S0		Etidocaine	Local anesthetic	Discontinued, no FDA-approved product commercially available.		
BANNED	S0		Etifoxine (etafenoxine)	Anticonvulsant	Lacks FDA approval.		
BANNED	S0		Etilefrine	Stimulant	Lacks FDA approval.		
BANNED	S0		Etiocholanolone	Anabolic	Lacks FDA approval.		
BANNED	S0		Etizolam	Anxiolytic	Lacks FDA approval.		
CONTROLLED	S7	B	Etodolac	NSAID	Generic.		
BANNED	S0		Etodroxizine	Antihistamine	Lacks FDA approval.		
BANNED	S0		Etofenamate	NSAID	Lacks FDA approval.		
BANNED	S0		Etomidate	Anesthetic	Amidate.		
BANNED	S0		Etoricoxib	NSAID	Lacks FDA approval.		
BANNED	S0		Etorphine HCl	Opioid analgesic	M99. DEA Schedule I.		
BANNED	S2		Examorelin (hexarelin)	Growth Hormone	Lacks FDA approval.		
BANNED	S4		Exemestane	Aromatase inhibitor	Aromasin.		
CONTROLLED	S7	C	Famotidine	Anti-ulcer	Duexis, Pepcid.		
BANNED	S0		Famprofazone	NSAID	Lacks FDA approval.		
BANNED	S0		Febarbamate	Anxiolytic	Lacks FDA approval.		
BANNED	S0		Felbamate	Anticonvulsant	Trezix, Tuxari, Triacin-C.		
BANNED	S0		Felbinac	NSAID	Lacks FDA approval.		
BANNED	S0		Felodipine	Antihypertensive	Generic.		
BANNED	S0		Fenbufen	NSAID	Felbatol.		
BANNED	S0		Fenbutrazate	Psychostimulant	Lacks FDA approval.		
BANNED	S0		Fencamfamine	Stimulant	Lacks FDA approval. DEA Schedule IV.		
BANNED	S0		Fencamine	Psychostimulant	Lacks FDA approval.		
BANNED	S0		Fenclofenac	NSAID	Lacks FDA approval.		
BANNED	S0		Fenclozic acid	NSAID	Lacks FDA approval.		
BANNED	S0		Fenetylline (fenetylline, phenethylline, phenetylline).	Psychostimulant	Lacks FDA approval.		
BANNED	S0		Fenfluramine	Stimulant	Fintepla. DEA Schedule IV.		
CONTROLLED	S7	B	Fenoldopam	Vasodilator	Corlopam.		
CONTROLLED	S7	B	Fenoprofen	NSAID	Nalfon.		
BANNED	S3		Fenoterol	Beta-2 agonist-bronchodilator	Lacks FDA approval.		
BANNED	S0		Fenozolone	Psychostimulant	Lacks FDA approval.		
BANNED	S0		Fenpiprane	Antispasmodic	Lacks FDA approval.		
BANNED	S0		Fenproporex	Stimulant	Lacks FDA approval. DEA Schedule IV.		
BANNED	S0		Fenspiride	Bronchodilator	Lacks FDA approval.		
CONTROLLED	S7	A	Fentanyl (fentanil)	Opioid Analgesic	Actiq, Fentora, Lazanda, Sublimaze, Subsys. DEA Schedule II.		

BANNED	S0		Fentiazac	NSAID	Lacks FDA approval.		
BANNED	S0		Feprazone	NSAID	Lacks FDA approval.		
CONTROLLED	S7	C	Fexofenadine	Antihistamine	Allegra.		
BANNED	S2		Fibroblast Growth Factors (FGFs).	Growth Hormone	.		
CONTROLLED	S7	C	Firocoxib	NSAID	Equioxx, Previcox	Detection Time: 360 hrs. 100 mcg/kg orally once daily for total of 7 doses. (20 horses).	2 ng/mL in serum or plasma.
BANNED	S0		Flavoxate	Anticholinergic	Generic.		
CONTROLLED	S7	B	Flecainide	Antiarrhythmic	Generic.		
BANNED	S0		Floctafenine	NSAID	Lacks FDA approval.		
BANNED	S0		Fluanisone	Antipsychotic	Lacks FDA approval.		
BANNED	S0		Fludiazepam	Anxiolytic	Lacks FDA approval. DEA Schedule IV.		
BANNED	S0		Fludrocortisone	Corticosteroid	Generic.		
BANNED	S0		Flufenamic acid	NSAID	Lacks FDA approval.		
CONTROLLED	S7	C	Flumethasone (flumetasone)	Corticosteroid	Flucort, Anaprime.		
BANNED	S5		Flumethiazide	Diuretic	Discontinued, no FDA-approved product commercially available.		
BANNED	S0		Flunarizine	Calcium channel blocker	Lacks FDA approval.		
BANNED	S0		Flunisolide	Corticosteroid	Generic.		
BANNED	S0		Flunitrazepam	Sedative/Anxiolytic	Lacks FDA approval. DEA Schedule IV.		
CONTROLLED	S7	C	Flunixin	NSAID (3 NSAIDs (Flunixin, Ketoprofen, Phenylbutazone) are associated with a Detection Time of 48 hours. Only one of the three may be administered using a Withdrawal Interval based on the 48 hour Detection Time. To avoid a stacking violation (detection of more than 1 NSAID in a blood sample) the following secondary Detection Times should be applied for the following 3 NSAIDs: Flunixin: 144 hours; Ketoprofen 96 hours; Phenylbutazone: 168 hours.).	Banamine, Flunixamine, Equileve, Meflosyl.	Detection Time: 48 hrs. 1.1 mg/kg single IV dose (16 horses); 500 mg single IV dose (12 horses).	4 ng/mL in serum or plasma. *Note:* The detection of more than one NSAID in a horse's post-Race or Post-Official Workout blood sample constitutes a Stacking Violation.
CONTROLLED	S7	C	Fluocinolone acetonide	Corticosteroid	Flucort-N.		
CONTROLLED	S7	C	Fluocinonide	Corticosteroid	Fluonex, Lidex, Lonide, Lyderm.		
BANNED	S0		Fluocortolone	Corticosteroid	Lacks FDA approval.		
BANNED	S0		Fluopromazine (Triflupromazine)	Antipsychotic	Lacks FDA approval.		
BANNED	S0		Fluoresone	Anticonvulsant	Lacks FDA approval.		
BANNED	S0		Fluorocortisone	Corticosteroid	Lacks FDA approval.		
CONTROLLED	S7	C	Fluorometholone	Corticosteroid	FML Forte.		
BANNED	S0		Fluorophenethylamine	Stimulant	Lacks FDA approval.		
BANNED	S0		Fluoroprednisolone	Corticosteroid	Discontinued, no FDA-approved product commercially available.		
BANNED	S0		Fluoxetine	Antidepressant	Prozac.		
BANNED	S1		Fluoxymesterone	Anabolic	Discontinued, no FDA-approved product commercially available. DEA Schedule III.		
BANNED	S0		Flupenthixol (flupentixol)	Antipsychotic	Lacks FDA approval.		
CONTROLLED	S7	B	Fluphenazine	Antipsychotic	Generic.		
BANNED	S0		Flupirtine	Analgesic	Lacks FDA approval.		
BANNED	S0		Fluprednisolone	Corticosteroid	Discontinued, no FDA-approved product commercially available.		
CONTROLLED	S7	C	Flurandrenolide (Flurandrenolone, Fludroxycortide).	Corticosteroid	Cordran.		
BANNED	S0		Flurazepam	Sedative/Anxiolytic	Generic. DEA Schedule IV.		
CONTROLLED	S7	B	Flurbiprofen	NSAID	Ansaid, Ocufen, Strepfen.		
BANNED	S0		Fluspirilene	Antipsychotic	Lacks FDA approval.		

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CONTROLLED	S7	C	Fluticasone	Corticosteroid	Flovent, Flonase.		
BANNED	S0		Flutoprazepam	Sedative/Anxiolytic	Lacks FDA approval.		
BANNED	S0		Fluvoxamine	Antidepressant	Luvox.		
BANNED	S4		Follistatin	Myostatin inhibitor.			
BANNED	S1		Formebolone	Anabolic	Lacks FDA approval. DEA Schedule III.		
BANNED	S4		Formestane	Aromatase inhibitor	Lacks FDA approval.		
BANNED	S3		Formoterol (Aformoterol)	Beta-2 agonist-bronchodilator	Brovana; Breyna (with budesonide); Duaklir Pressair (with aclidinium).		
BANNED	S0		Fosinopril	Antihypertensive	Generic.		
BANNED	S0		Fosphenytoin	Anticonvulsant	Cerebyx.		
BANNED	S4		Fulvestrant	Estrogen antagonist	Falsodex.		
BANNED	S1		Furazabol	Anabolic	Lacks FDA approval. DEA Schedule III.		
BANNED	S0		Furazadrol	Anabolic	Lacks FDA approval.		
BANNED	S0		Furfenorex	Stimulant	Lacks FDA approval.		
CONTROLLED-(Permitted at all times during Workouts, Official Workouts, and other training exercise).	S7	C	Furosemide	Diuretic	Lasix, Salix	Restricted Administration: 48 hrs. 1 mg/kg single IV dose (6 horses).	50 ng/mL in urine or 0.1 ng/mL in serum or plasma.
CONTROLLED-where permitted on race day.	S7	C	Furosemide (where permitted by exemption).	Diuretic	Lasix, Salix	Shall not be administered within 4 hours prior to Post-Time.	100 ng/mL in serum or plasma AND urine S.G. < 1.010.
CONTROLLED	S7	B	Gabapentin	Anticonvulsant	Horizant, Gralise, Neurontin.		
BANNED	S0		Galantamine	Acetylcholinesterase inhibitor	Razadyne.		
BANNED	S0		Gallamine	Muscle relaxant	Discontinued, no FDA-approved product commercially available.		
BANNED	S0		Gamma Aminobutyric Acid (GABA).	Neurotransmitter	Endogenous substance.		
BANNED	S0		Gamma-butyrolactone (GBL)	Neurohormone	Lacks FDA approval.		
BANNED	S0		Gamma-hydroxybutyrate (GHB)	CNS depressant	Lacks FDA approval.		
BANNED	S0		Gepirone	Antidepressant	Lacks FDA approval.		
BANNED	S1		Gestrinone	Anabolic	Lacks FDA approval. DEA Schedule III.		
BANNED	S1		GH-Releasing Peptides (ghrps), e.g., alexamorelin, GHRP–6, hexarelin and pralmorelin (GHRP–2).	Growth Hormone.			
BANNED	S0	(x)	Glaucine	Antitussive	Lacks FDA approval.		0.5 ng/mL in serum or plasma.
BANNED	S0		Glutethimide (chlorhexidol)	Sedative	Discontinued, no FDA-approved product commercially available. DEA Schedule II.		
CONTROLLED	S7	C	Glycopyrrolate	Anticholinergic	Robinul	Detection Time: 48 hours. 1 mg single dose IV. (20 horses).	0.003 ng/mL in serum or plasma.
CONTROLLED—fillies and mares.	S7	B	Gonadorelin	Induce ovulation	Cystorelin, Factrel, Fertelin, OvaCyst, Fertagyl, Gonabree.		
BANNED—intact males and geldings.	S4		Gonadorelin	Reproductive hormone modulator.	Cystorelin, Factrel, Fertelin, OvaCyst, Fertagyl, Gonabreed.		
BANNED	S2		Goserelin	Reproductive hormone modulator.	Zoladex.		
BANNED	S1		Growth Hormone Releasing Hormone (GHRH).	Anabolic.			

CONTROLLED	S7	C	Guaifenesin (glycerol guiacolate).	Expectorant	Mucinex	Detection Time: 48 hrs. 2 grams total body dose, orally twice daily for 5 doses. (9 horses).	1 ng/mL in serum or plasma.
BANNED	S			Antihypertensive	Generic.		
BANNED	S0		Guanadrel	Antihypertensive	Discontinued, no FDA-approved product commercially available.		
BANNED	S0		Guanethidine	Antihypertensive	Discontinued, no FDA-approved product commercially available.		
BANNED	S0		Guanoclor	Antihypertensive	Lacks FDA approval.		
BANNED	S0		Halazepam	Sedative/Anxiolytic	Discontinued, no FDA-approved product commercially available. DEA Schedule IV.		
CONTROLLED	S7	C	Halcinonide	Corticosteroid	Halog.		
BANNED	S0		Haldrol	Anabolic	Lacks FDA approval.		
CONTROLLED	S7	C	Halobetasol	Corticosteroid	Lexette, Bryhali, Ultravate.		
BANNED	S0		Haloperidol	Antipsychotic	Haldol.		
BANNED	S0		Haloxazolam	Sedative/Anxiolytic	Lacks FDA approval.		
BANNED	S0		Harmaline	Psychoactive	Lacks FDA approval.		
CONTROLLED	S7	B	Harpagoside (Devil's Claw)	Anti-inflammatory	Glycoside of plangt origin. No FDA-approved products commercially available. Constituent of multiple, unregulated OTC herbal remedies.		
BANNED	S2		Hepatocyte Growth Factor (HGF).	Growth Hormone.			
BANNED	S0		Heptaminol	Cardiac stimulant.			
BANNED	S0		Hexafluorenium	Muscle relaxant	Discontinued, no FDA-approved product commercially available.		
BANNED	S0		Hexobarbital	Sedative	Lacks FDA approval.		
BANNED	S0		Hexocyclium	Anticholinergic	Discontinued, no FDA-approved product commercially available.		
BANNED	S0		Hexylcaine	Local anesthetic	Discontinued, no FDA-approved product commercially available.		
BANNED	S3		Higenamine (norclaurine, demethylcoclaurine).	Bronchodilator	Constituent of numerous OTC dietary supplements marketed for weight loss or as sports/energy supplements. Lacks FDA approval.		
BANNED	S0		Histapyrrodine	Antihistamine	Lacks FDA approval.		
BANNED	S4		Histrelin	GnRH agonist	Supprelin LA, Vantas.		
CONTROLLED	S7	B	Homatropine	Anticholinergic	Hycodan [with hydrocodone].		
BANNED	S0		Homophenazine	Antipsychotic	Lacks FDA approval.		
CONTROLLED	S7	A (x)	Hordenine	Stimulant	Plant alkaloid (e.g. barley). Constituent of numerous OTC dietary supplements marketed for weight loss. Lacks FDA approval..		80 mcg/mL total (free and conjugated) in urine.
CONTROLLED	S7	B	Hydralazine	Vasodilator	Hydra-Zide, Bidi.		
BANNED	S5		Hydrochlorthiazide	Diuretic	Lotensin (with bisoprolol); Vaseretic (with enalapril); Avilide (with irbesartan); Zestoretic (with lisinopril); Lopressor (with metoprolol); Micardis (with telmisartan); and other.		
BANNED	S0		Hydrocodone (dihydrocodienone).	Opioid Analgesic	Hysingla; Apadaz, Anexsia (with acetaminophen); Hycodan (with homatropine) DEA Schedule II.		
CONTROLLED	S7	C	Hydrocortisone	Corticosteroid	Cortef. Note: hydrocortisone is a component of numerous products, particularly those for topical, ophthalmic, and otic applications. The Responsible Person is advised to read all medication labels prior to authorizing administration.		Threshold: 1 mcg/mL in urine.

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BANNED	S5		Hydroflumethiazide	Diuretic	Discontinued, no FDA-approved product commercially available.		
BANNED	S0		Hydromorphinol	Opioid Analgesic	Lacks FDA approval.		
BANNED	S0		Hydromorphone	Opioid Analgesic	Dilaudid. DEA Schedule II.		
BANNED	S0		Hydroxyamphetamine	Stimulant	Paremyd (with tropicamide).		
BANNED	S0		Hydroxy-gamma amino butyric acid.	Neurohormone	Lacks FDA approval.		
BANNED	S0		Hydroxytestosterone	Anabolic	Lacks FDA approval.		
CONTROLLED	S7	C	Hydroxyzine	Antihistamine	Atarax	Detection time: 96 hours. Hydroxyzine: 190 mg twice daily for a total of 9 doses (2 horses)..	
BANNED	S6		Ibandronate	Bisphosphonate	Generic.		
BANNED	S0		Ibogaine	Psychoactive	Lacks FDA approval. DEA Schedule I.		
CONTROLLED	S7	C	Ibuprofen	NSAID	Advil, Motrin.		
BANNED	S2		Ibutamoren	Growth Hormone	Investigational New Drug (in clinical trials).		
CONTROLLED	S7	B	Ibutilide	Antiarrhythmic	Corvert.		
BANNED	S0		Iloprost	Vasodilator	Ventavis.		
CONTROLLED	S7	A	Imipramine	Antidepressant	Tofranil.		
BANNED	S3		Indacaterol	Beta-2 agonist-bronchodilator	Discontinued, no FDA-approved product commercially available.		
BANNED	S5		Indapamide	Diuretic	Generic.		
CONTROLLED	S7	B	Indomethacin	NSAID	Indocin.		
BANNED	S0		Indoprofen	NSAID	Lacks FDA approval.		
BANNED	S0		Indoramin	Antihypertensive	Lacks FDA approval.		
CONTROLLED	S7	B	Infliximab	Immunosuppressor	Remicade.		
BANNED	S2		Insulin- like Growth Factor-1 (IGF–1) and its analogues.	Peptide hormone.			
BANNED	S2		Insulins	Anti-hyperglycemics.			
BANNED	S2		IOX–2	Erythropoiesis	Lacks FDA approval.		
BANNED	S2		Ipamorelin	Growth Hormone	Lacks FDA approval.		
CONTROLLED	S7	B	Ipratropium	Bronchodilator	Atrovent	Detection Time: 120 hrs. 5.5 mcg/kg once daily via nebulization for 3 total doses (6 horses).	0.25 ng/mL in urine.
CONTROLLED	S7	B	Ipratropium bromide	Bronchodilator	Atrovent; Combivent (with albuterol).		
BANNED	S0		Iprindole	Antidepressant	Lacks FDA approval.		
BANNED	S0		Iproniazid	Antidepressant	Lacks FDA approval.		
BANNED	S0		Ipsapirone	Antidepressant	Lacks FDA approval.		
BANNED	S5		Irbesartan	Antihypertensive	Avalide, Avapro.		
BANNED	S0		Isoaminile	Antitussive	Lacks FDA approval.		
BANNED	S0		Isocarboxazid	Antidepressant	Marplan.		
BANNED	S0		Isoetharine	Bronchodilator	Discontinued, no FDA-approved product commercially available.		
CONTROLLED	S7	C	Isoflupredone	Corticosteroid	Predef 2x	14 day stand down for all intra-articular injections. Serum concentrations associated with an experimental dose of 8 mg IA single joint (6 horses) were all below Limit of Detection by 14 days..	
BANNED	S0		Isomethadone (isoamidone)	Synthetic opioid analgesic	Lacks FDA approval. DEA Schedule I.		
BANNED	S0		Isometheptene	Sympathomimetic	Lacks FDA approval.		

BANNED	S0		Isopropamide	Anticholinergic	Discontinued, no FDA-approved product commercially available.		
BANNED	S3		Isoproterenol	Beta-2 agonist	Generic.		
BANNED	S0		Isopyrin (Raminfenazone)	NSAID	Lacks FDA approval.		
CONTROLLED	S7	B	Isosorbide dinitrate	Vasodilator	Isordil.		
BANNED	S0		Isothipendyl	Antihistamine	Lacks FDA approval.		
BANNED	S0		Isoxicam	NSAID	Lacks FDA approval.		
BANNED	S0		Isradipine	Antihypertensive	Generic.		
BANNED	S0		Isoxsuprine	Vasodilator	Lacks FDA approval.		
BANNED	S0		Kebuzone	NSAID	Lacks FDA approval.		
CONTROLLED	S7	B	Ketamine/norketamine	Anesthetic	Ketaset, Vetalar. DEA Schedule III.		
BANNED	S0		Ketazolam	Sedative/Anxiolytic	Lacks FDA approval. DEA Schedule IV.		
CONTROLLED	S7	C	Ketoprofen	NSAID	Ketofen	Detection Time: 48 hrs. 2.2 mg/kg single IV dose. (24 horses).	2 ng/mL in serum or plasma. Note: The detection of more than one NSAID in a horse's post-Race or Post-Official Workout blood sample constitutes a Stacking Violation. 3 NSAIDs (Flunixin, Ketoprofen, Phenylbutazone) are associated with a Detection Time of 48 hours. Only one of the three may be administered using a Withdrawal Interval based on the 48 hour Detection Time. To avoid a stacking violation (detection of more than 1 NSAID in a blood sample) the following secondary Detection Times should be applied for the following NSAIDs: Flunixin: 144 hours; Ketoprofen 96 hours; Phenylbutazone: 168 hours.
CONTROLLED	S7	A	Ketorolac	NSAID	Acular, Acuvail, Sprix, Omidria.		
CONTROLLED	S7	B	Ketotifen	Antihistamine	Alaway, Zaditor.		
BANNED	S2		Krypton	Hypoxia Inducible Factor activating.	.		
BANNED	S0		Labetalol	Antihypertensive	Trandate.		
CONTROLLED	S7	A	Lamotrigine	Anticonvulsant	Lamictal.		
BANNED	S4		Landogrozumab	Myostatin inhibitor	Lacks FDA approval.		
CONTROLLED	S7	C	Lansoprazole	Anti-ulcer	Prevacid.		
BANNED	S2		Lenomorelin (ghrelin)	Growth Hormone	Lacks FDA approval.		
BANNED	S0		Lenperone	Antipsychotic	Lacks FDA approval.		
BANNED	S0		Leptazole (Pentylenetetrazole)	Stimulant	Lacks FDA approval.		
BANNED	S0		Letosteine	Mucolytic	Lacks FDA approval.		
BANNED	S2		Letrozole	Aromatase inhibitor	Femara.		
BANNED	S2		Leuprorelin (leuprolide)	Reproductive hormone modulator.	Eligard Kit, Fensolvi Kit, Camcevi Kit.		
BANNED	S0		Levallorphan	Opioid Antagonist	Discontinued, no FDA-approved product commercially available.		
CONTROLLED	S7	B	Levamisole	Anthelmintic/Immunostimulant	Ripercol, Tramisol, Levasole, Prohibit, LevaMed.		
BANNED	S0		Levobunolol	Antihypertensive	Betagan.		
BANNED	S0		Levocabastine	Antihistamine	Discontinued, no FDA-approved product commercially available.		

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BANNED	S0		Levodopa	Decarboxylase Inhibitor	Inbrija; Stalevo, Rytary, Duopa, Dhivy, Sinemet (all with carbidopa).		
BANNED	S0		Levomethadone	Opioid Analgesic	Lacks FDA approval.		
BANNED	S0		Levomethorphan	Opioid Analgesic	Lacks FDA approval. DEA Schedule II.		
BANNED	S0		Levophacetoperane	Psychostimulant	Lacks FDA approval.		
BANNED	S0		Levorphanol	Opioid Analgesic	Generic. DEA Schedule I.		
BANNED	S3		Levosalbutamol (levalbuterol)	Beta-2 agonist-bronchodilator	Xopenex.		
BANNED	S4		Levothyroxine	Metabolic hormone	Thyro-Tabs, ThyroKare, Tirosint, Ermeza, Euthyrox, Levolet, Synthroid, Levoxyl, Unithroid.		
CONTROLLED	S7	B	Lidocaine	Local anesthetic	Xylocaine [with epinephrine], Lignospan, Ztlido, Akten.	Detection Time: 48 hours. 200 mg of lidocaine as its hydrochloride salt administered subcutaneously (6 horses).	10 ng/mL as 3-hydroxylidocaine in urine; 0.02 ng/mL as 3-hydroxylidocaine in serum or plasma.
BANNED	S0		Lidoflazine	Vasodilator	Lacks FDA approval.		
BANNED	S4		Ligandrol (LGD–4033)	Selective Androgen Receptor Modulator (SARM).	Lacks FDA approval.		
BANNED	S0		Lisinopril	Antihypertensive	Zestoretic, Qbrelis.		
BANNED	S0		Lithium	Mood Stabilizer	Lithobid.		
BANNED	S0	(x)	Lobeline	Respiratory Stimulant	Plant alkaloid (Lobelia, Indian Tobacco) Environmental substance. Lacks FDA approval..		2 ng/mL in serum or plasma.
BANNED	S0		Lofentanil	Opioid Analgesic	Lacks FDA approval.		
BANNED	S0		Lofepramine	Antidepressant	Lacks FDA approval.		
BANNED	S0		Loflazepate, Ethyl	Anxiolytic	Lacks FDA approval.		
BANNED	S2		Lonapegsomatropin	Growth Hormone	FDA Orphan Drug.		
CONTROLLED	S7	B	Loperamide	Anti-diarrheal	Imodium.		
BANNED	S0		Loprazolam	Anxiolytic	Lacks FDA approval. DEA Schedule IV.		
CONTROLLED	S7	C	Loratidine	Antihistamine	Claritin.		
BANNED	S0		Lorazepam	Anxiolytic	Ativan. DEA Schedule IV.		
BANNED	S0		Lormetazepam	Sedative/Anxiolytic	Lacks FDA approval.		
BANNED	S0		Lornoxicam	NSAID	Lacks FDA approval. DEA Schedule IV.		
BANNED	S0		Losartan	Antihypertensive	Cozaar, Hyzaar [with hydrochlorothiazide].		
BANNED	S0		Loxapine	Antipsychotic	Adasuve.		
BANNED	S3		Lubabegron	Beta adrenergic modulator	Experior.		
BANNED	S0		Lumiracoxib	NSAID	Lacks FDA approval.		
BANNED	S2		Luspatercept	Erythropoiesis	FDA Orphan Drug.		
CONTROLLED—fillies and mares.	S7	B	Luteinizing Hormone (LH)	Reproductive hormone modulator.			
BANNED—intact males and geldings.	S2		Luteinizing Hormone (LH)	Reproductive hormone modulator.			
BANNED	S3		Mabuterol	Beta-2 agonist-bronchodilator	Lacks FDA approval.		
BANNED	S2		Macimorelin	Growth Hormone	Macrilen.		
CONTROLLED	S7	B	Magnesium sulfate	Sedative/Laxative	Generic.		
BANNED	S0		Maprotiline	Antidepressant	Discontinued, no FDA-approved product commercially available.		
BANNED	S0		Mazindol	Stimulant	Discontinued, no FDA-approved product commercially available. DEA Schedule IV.		
BANNED	S0		Mebanazine	Antidepressant	Lacks FDA approval.		
BANNED	S0		Mebeverine	Antispasmodic	Lacks FDA approval.		
BANNED	S0		Mebhyroline (Mebhydrolin)	Antihistamine	Lacks FDA approval.		

BANNED	S0		Mebutamate	Sedative/Anxiolytic	Discontinued, no FDA-approved product commercially available. DEA Schedule IV.		
BANNED	S0		Mecamylamine	Vasodilator	Generic.		
BANNED	S2		Mechano Growth Factors (MGFs).	Growth Hormone			
BANNED	S0		Meclizine	Antihistamine	Antivert.		
CONTROLLED	S7	B	Meclofenamic acid	NSAID	Discontinued, no FDA-approved product commercially available. Routinely compounded.		
BANNED	S1		Meclofenoxate	Cholinergic nootropic	Lacks FDA approval.		
BANNED	S0	(x)	Meconine	Opioid	Lacks FDA approval.		
BANNED	S0		Medazepam	Sedative/Anxiolytic	Lacks FDA approval. DEA Schedule IV.		
CONTROLLED	S7	B	Medetomidine	Sedative/Analgesic	Domitor, Placadine		5 ng/mL as 3-hydroxymedetomidine in urine.
CONTROLLED	S7	B	Medroxyprogesterone	Reproductive hormone	Depo-Provera.		
BANNED	S0		Medrylamine	Antihistamine	Lacks FDA approval.		
BANNED	S0		Medrysone	Corticosteroid	Discontinued, no FDA-approved product commercially available.		
BANNED	S0		Mefenamic acid	NSAID	Ponstel.		
BANNED	S0		Mefenorex	Stimulant	Lacks FDA approval. DEA Schedule IV.		
BANNED	S0		Mefexamide	Stimulant	Lacks FDA approval.		
BANNED	S0		Mefruside	Diuretic	Lacks FDA approval.		
BANNED	S2		Meldonium	Anti-ischemic	Lacks FDA approval.		
CONTROLLED	S7	B	Meloxicam	NSAID	Metacam.		
BANNED	S0		Melperone	Antipsychotic	Lacks FDA approval.		
BANNED	S0		Memantine	Alzheimer's treatment	Namenda; Namzaric (with donepezil).		
BANNED	S0		Meparfynol (methylpentynol)	Sedative	Lacks FDA approval.		
BANNED	S0		Mepazine	Antipsychotic	Lacks FDA approval.		
BANNED	S0		Mepednisone	Corticosteroid	Lacks FDA approval.		
BANNED	S0		Mepenzolate	Anti-ulcer	Discontinued, no FDA-approved product commercially available.		
BANNED	S0		Meperidine	Opioid analgesic	Demerol. DEA Schedule II.		
BANNED	S0		Mephenesin	Muscle relaxant	Lacks FDA approval.		
BANNED	S0		Mephenoxalone	Muscle relaxant	Lacks FDA approval.		
BANNED	S0		Mephentermine	Cardiac stimulant	Discontinued, no FDA-approved product commercially available.		
BANNED	S0		Mephenytoin	Anticonvulsant	Discontinued, no FDA-approved product commercially available.		
BANNED	S0		Mephobarbital (Methylphenobarbital).	Sedative/Anxiolytic	Lacks FDA approval.		
BANNED	S0		Mepindolol	Beta blocker	Lacks FDA approval.		
CONTROLLED	S7	B	Mepivacaine	Local anesthetic	Carbocaine, Polocaine, Scandonest.	Detection Time: 72 hrs. 40 mg (2 ml) single dose SQ distal limb (6 horses).	10 ng/mL as 3-hydroxymepivacaine in urine; 0.05 ng/mL in serum or plasma.
BANNED	S0		Meprobamate (Meprobamate is a metabolite of carisoprodol. If there is credible evidence that the presence of meprobamate in a horse's sample is the consequence of carisoprodol administration, the classification of meprobamate may be revised to S7(A).).	Anxiolytic	Generic. DEA Schedule IV.		
BANNED	S0		Meprylcaine	Local anesthetic	Lacks FDA approval.		
BANNED	S0		Meptazinol	Narcotic	Lacks FDA approval.		
BANNED	S5		Meralluride	Diuretic	Lacks FDA approval.		
BANNED	S5		Merbaphen	Diuretic	Lacks FDA approval.		
BANNED	S5		Mercaptomerin	Diuretic	Lacks FDA approval.		
BANNED	S0		Mersalyl	Diuretic	Discontinued, no FDA-approved product commercially available.		

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CONTROLLED	S7	C	Mesalamine (mesalazine)	Anti-inflammatory	Delzicol, Pentasa, Sfrowasa, Canasa, Lialda.		
BANNED	S0		Mesocarb	Stimulant	Lacks FDA approval.		
BANNED	S0		Mesoridazine	Antipsychotic	Discontinued, no FDA-approved product commercially available.		
BANNED	S1		Mestanolone	Anabolic	Lacks FDA approval. DEA Schedule III.		
BANNED	S1		Mesterolone	Anabolic	Lacks FDA approval. DEA Schedule III.		
BANNED	S0		Metaclazepam	Anxiolytic	Lacks FDA approval.		
BANNED	S1		Metandienone	Anabolic	Lacks FDA approval.		
BANNED	S3		Metaproterenol (Orciprenaline)	Beta-2 agonist-bronchodilator	Generic.		
BANNED	S0		Metaraminol	Antihypotensive	Generic.		
BANNED	S0		Metaxalone	Muscle relaxant	Skelaxin.		
BANNED	S0		Metazocine	Opioid analgesic	Lacks FDA approval. DEA Schedule II.		
BANNED	S1		Metenolone	Anabolic	Lacks FDA approval. DEA Schedule III.		
BANNED	S0		Metformin	Anti-hyperglycemic	Fortamet, Glumetza, Glucophage.		
BANNED	S0		Methacholine	Bronchoconstrictor	Provocholine.		
BANNED	S0		Methadone	Synthetic opioid agonist	Methadose. DEA Schedule II.		
BANNED	S0		Methallenestril	Synthetic estrogen	Lacks FDA approval.		
BANNED	S0		Methamphetamine	Stimulant	Desoxyn. DEA Schedule II.		
BANNED	S1		Methandienone	Anabolic	Lacks FDA approval. DEA Schedule III.		
BANNED	S1		Methandriol (Methylandrostenediol).	Anabolic	Lacks FDA approval. DEA Schedule III.		
BANNED	S1		Methandrostenolone	Anabolic	Lacks FDA approval.		
BANNED	S0		Methantheline	Anticholinergic	Discontinued, no FDA-approved product commercially available.		
BANNED	S0		Methapyrilene	Antihistamine	Lacks FDA approval.		
BANNED	S0		Methaqualone	Sedative	Lacks FDA approval. DEA Schedule I.		
BANNED	S0		Metharbital	Sedative	Discontinued, no FDA-approved product commercially available.		
BANNED	S1		Methasterone	Anabolic	Lacks FDA approval. DEA Schedule III.		
BANNED	S0		Methazolamide	Carbonic Anhydrase Inhibitor	Generic.		
BANNED	S0		Methcathinone	Stimulant	Lacks FDA approval. DEA Schedule I.		
BANNED	S0		Methdilazine	Antihistamine	Discontinued, no FDA-approved product commercially available.		
BANNED	S1		Methenolone	Anabolic	Lacks FDA approval. DEA Schedule III.		
BANNED	S0		Methimazole	Anti-thyroid	Generic.		
BANNED	S0		Methixene	Anticholinergic	Discontinued, no FDA-approved product commercially available.		
CONTROLLED	S7	C	Methocarbamol	Muscle relaxant	Robaxin	Detection Time: 48 hours. 15 mg/kg single IV dose. (20 horses).	1 ng/mL in serum or plasma.
BANNED	S0		Methohexital	Sedative	Brevital.		
CONTROLLED	S7	B	Methotrexate	Immunomodulator	Otrexup, Rasuvo, Reditrex, Trexall.		
BANNED	S0		Methotrimeprazine	Antipsychotic	Lacks FDA approval.		
BANNED	S0		Methoxamine	Stimulant	Discontinued, no FDA-approved product commercially available.		
BANNED	S3		Methoxyphenamine	Bronchodilator	Lacks FDA approval.		
BANNED	S2		Methoxypolyethylene glycol-epoetin beta (CERA).	Erythropoiesis	Micera.		

BANNED	S0		Methoxytyramine (3-)	Neuromodulator	Endogenous substance		Threshold: 4 mcg/mL total (free and conjugated) 3-methoxytyramine per mL in urine.
BANNED	S0		Methscopolamine (Methyl scopolamine).	Anticholinergic	Generic.		
BANNED	S0		Methsuximide	Anticonvulsant	Celontin.		
BANNED	S1		Methyl-1-testosterone	Anabolic	Android 25. DEA Schedule III.		
BANNED	S0		Methylaminorex	Stimulant	Lacks FDA approval. DEA schedule I.		
BANNED	S0		Methylatropine	Anticholinergic	Lacks FDA approval.		
BANNED	S0		Methylchlorthiazide (Methylclothiazide).	Diuretic	Lacks FDA approval.		
BANNED	S1		Methylclostebol	Anabolic	Lacks FDA approval. DEA Schedule III.		
BANNED	S5		Methylclothiazide	Diuretic	Discontinued, no FDA-approved product commercially available.		
BANNED	S1		Methyldienolone	Anabolic	Lacks FDA approval. DEA Schedule III.		
BANNED	S0		Methyldopa	Antihypertensive	Generic.		
BANNED	S0		Methylenedioxyamphetamine (MDA).	Stimulant	Lacks FDA approval. DEA Schedule I.		
BANNED	S0		Methylenedioxyethylamphetamine (MDEA).	Stimulant	Lacks FDA approval. DEA Schedule I.		
BANNED	S0		Methylenedioxymethamphetamine (MDMA).	Stimulant	Lacks FDA approval. DEA Schedule I.		
BANNED	S0		Methylephedrine	Stimulant	Lacks FDA approval.		
CONTROLLED	S7	C	Methylergonovine	Ergot alkaloid	Methergine.		
BANNED	S0		Methylhexanamine (Methylhexaneamine).	Stimulant	Lacks FDA approval.		
BANNED	S0		Methylmethcathinone	Stimulant	Lacks FDA approval.		
BANNED	S1		Methylnortestosterone (Trestolone).	Anabolic	Lacks FDA approval. DEA Schedule III.		
BANNED	S0		Methylphenidate	Stimulant	Ritalin. DEA Schedule II.		
CONTROLLED	S7	C	Methylprednisolone	Corticosteroid	Depo-Medrol.		
BANNED	S0		Methylprylone (methprylon)	Sedative	Lacks FDA approval.		
BANNED	S0		Methylpseudoephedrine	Stimulant	Lacks FDA approval.		
CONTROLLED	S7	C	Methylsalicylate	NSAID	Salonpas (with menthol).		
CONTROLLED	S7	C	Methylsulfonylmethane (MSM)	Anti-inflammatory	Feed contaminant per IFHA		1200 mcg/mL in urine.
BANNED	S1		Methyltestosterone	Anabolic	Android 25. DEA Schedule III.		
BANNED	S1		Methyltrienolone (metribolone)	Anabolic	Lacks FDA approval. DEA Schedule III.F89.		
BANNED	S0		Methyprylon	Sedative	Discontinued, no FDA-approved product commercially available. DEA Schedule III.		
BANNED	S0		Methysergide	Ergot alkaloid	Discontinued, no FDA-approved product commercially availabl.		
BANNED	S0		Metiamide	Antihistamine	Lacks FDA approval.		
BANNED	S5		Meticrane	Diuretic	Lacks FDA approval.		
BANNED	S0		Metipranolol	Antihypertensive	Lacks FDA approval.		
CONTROLLED	S7	C	Metoclopramide	Anti-emetic/Prokinetic	Gimoti, Reglan.		
BANNED	S0		Metocurine	Muscle relaxant	Discontinued, no FDA-approved product commercially available.		
BANNED	S5		Metolazone	Diuretic	Generic.		
BANNED	S0		Metomidate	Sedative/Hypnotic	Lacks FDA approval.		
BANNED	S0		Metopon (methydihydromorphinone).	Opioid analgesic	Lacks FDA approval. DEA Schedule II.		
BANNED	S0		Metoprolol	Antihypertensive	Lopressor.		
BANNED	S0		Metrenperone	Myositis preventative	Lacks FDA approval.		
BANNED	S1		Metribolone	Anabolic	Lacks FDA approval. DEA Schedule III.		
BANNED	S0		Metyrapone	Hydrocortisone synthesis inhibitor.	Metopirone.		
BANNED	S0		Mexazolam	Anxiolytic	Lacks FDA approval.		
CONTROLLED	S7	B	Mexiletine	Antiarrhythmic	Generic.		
BANNED	S0		Mianserin	Antidepressant	Lacks FDA approval.		

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BANNED	S0		Mibefradil	Antihypertensive	Lacks FDA approval.		
BANNED	S1		Mibolerone	Anabolic	Cheque Drops. DEA Schedule III.		
CONTROLLED	S7	B	Midazolam	Anticonvulsant	Seizalam. DEA Schedule IV.		
BANNED	S0		Midodrine	Antihypotensive	Orvaten.		
CONTROLLED	S7	B	Milrinone	Vasodilator	Generic.		
BANNED	S0		Minoxidil	Antihypertensive	Rogaine.		
BANNED	S0		Mirtazapine	Antidepressant	Remeron.		
CONTROLLED	S7	C	Misoprostol	Prostaglandin analog	Cytotec	Detection Time: 48 hrs. 5 mcg/kg orally twice daily for 14 days. (6 horses).	
BANNED	S0		Mitragynine	Stimulant	Lacks FDA approval.		
BANNED	S0		Mivacurium	Muscle relaxant	Generic.		
BANNED	S0		Modafinil	Stimulant	Provigil. DEA Schedule IV.		
BANNED	S0		Moexipril (metabolite, moexiprilat).	Antihypertensive	Generic.		
BANNED	S0		Mofebutazone	NSAID	Lacks FDA approval.		
BANNED	S2		Molidustat (BAY 85–3934)	Erythropoiesis	Lacks FDA approval.		
BANNED	S0		Molindone	Antipsychotic	Generic.		
CONTROLLED	S7	C	Mometasone	Corticosteroid	Asmanex, Sinuva, Elocon, Ryaltris, Nasonex.		
CONTROLLED	S7	C	Montelukast	Leukotriene receptor antagonist	Singulair.		
BANNED	S0		Moperone	Antipsychotic	Lacks FDA approval.		
BANNED	S0		Moprolol	Antihypertensive	Lacks FDA approval.		
BANNED	S0		Morpheridine	Analgesic	Lacks FDA approval.		
CONTROLLED	S7	A (x)	Morphine	Opioid Analgesic	Duramorph, Infumorph, Mitigo, MS Contin. DEA Schedule II; Dietary substance per IFHA.		30 ng/mL total (free and conjugated) in urine.
BANNED	S0		Mosapramine	Antipsychotic	Lacks FDA approval.		
BANNED	S0		Moxaverine	Vasodilator	Lacks FDA approval.		
BANNED	S0	(x)	Muscarine	Cholinergic	Plant alkaloid.		
BANNED	S0		Myo-inositol trispyrophosphate (ITPP, OXY111A).	Oxygen transfer	Lacks FDA approval.		
CONTROLLED	S7	B	Nabumetone	NSAID	Generic.		
BANNED	S0		Nadolol	Antihypertensive	Corgard.		
BANNED	S0		Nadoxolol	Antihypertensive	Lacks FDA approval.		
BANNED	S0		Naepaine	Local anesthetic	Lacks FDA approval.		
BANNED	S2		Nafarelin	Reproductive hormone modulator.	Synarel.		
BANNED	S0		Naftidrofuryl	Vasodilator	Lacks FDA approval.		
BANNED	S0		Nalbuphine	Opioid receptor agonist and antagonist.	Generic.		
CONTROLLED	S7	A	Nalmefene	Opioid antagonist	Revex.		
BANNED	S0		Nalorphine	Opioid receptor agonist and antagonist.	Nalline. DEA Schedule III.F94.		
CONTROLLED	S7	B	Naloxone	Opioid antagonist	Narcan, Zimhi, Suboxone (with buprenorphine hydrochloride), Zubsolv (with buprenorphine hydrochloride).		
CONTROLLED	S7	A	Naltrexone	Opioid antagonist	Trexonil.		
BANNED—fillies, mares and geldings.	S1		Nandrolone (19-nortestosterone)	Anabolic	Discontinued, no FDA-approved product commercially available. DEA schedule III.		
CONTROLLED	S7	B	Naphazoline	Sympathomimetic	Naphcon-A (with pheniramine maleate), Opcon-A (with pheniramine maleate), Visine (with pheniramine maleate).		
CONTROLLED	S7	C	Naproxen	NSAID	Aleve, Naprosyn, Anaprox.		

BANNED	S0		Naratriptan	Selective Serotonin Receptor Agonist.	Amerge.		
CONTROLLED	S7	C	N-Butylscopolammonium	Anticholinergic	Buscopan	Detection Time: 48 hrs. 0.3 mg/kg single IV dose (6 horses).	25 ng/mL in urine.
BANNED	S0		Nebivolol	Antihypertensive	Bystolic.		
CONTROLLED	S7	C	Nedocromil	Mast Cell Stabilizer	Alocril.		
BANNED	S0		Nefazodone	Antidepressant	Generic.		
BANNED	S0		Nefopam	Analgesic	Lacks FDA approval.		
CONTROLLED	S7	B	Neostigmine	Anticholinesterase	Bloxiverz.		
BANNED	S6		Neridronate	Bisphosphonate	Lacks FDA approval.		
BANNED	S0		Nialamide	Antidepressant	Lacks FDA approval.		
BANNED	S0		Nicardipine	Antihypertensive	Generic.		
BANNED	S0		Nicoumalone	Anticoagulant	Lacks FDA approval.		
BANNED	S0		Nifedipine	Antihypertensive	Procardia.		
BANNED	S0		Nifenalol	Antihypertensive/Antiarrhythmic	Lacks FDA approval.		
BANNED	S0		Niflumic acid	NSAID	Lacks FDA approval.		
BANNED	S0		Nikethamide	Stimulant	Lacks FDA approval.		
BANNED	S0		Nimesulide	NSAID	Lacks FDA approval.		
BANNED	S0		Nimetazepam	Hypnotic	Lacks FDA approval. DEA Schedule IV.		
BANNED	S0		Nimodipine	Calcium channel blocker	Generic.		
BANNED	S0		Nitrazepam	Sedative/Anxiolytic	Lacks FDA approval. DEA Schedule IV.		
BANNED	S0		Nitroglycerin	Vasodilator	Nitromist, Nitro-Dur, Nitrostat.		
CONTROLLED	S7	C	Nizatidine	Anti-ulcer	Axid.		
BANNED	S0		Nomifensine	Antidepressant	Lacks FDA approval.		
BANNED	S1		Norandrostenediol	Anabolic	Lacks FDA approval.		
BANNED	S1		Norandrostenedione	Anabolic	Lacks FDA approval.		
BANNED	S1		Norandrosterone	Anabolic	Lacks FDA approval. DEA Schedule III.		
BANNED	S1		Norbolethone/Norboletone	Anabolic	Lacks FDA approval. DEA Schedule III.		
BANNED	S1		Norclostebol	Anabolic	Lacks FDA approval. DEA Schedule III.		
BANNED	S0		Nordiazepam/Nordazepam (Nordiazepam is a metabolite of diazepam. If there is credible evidence that the presence of nordiazepam in a horse's sample is the consequence of exposure to diazepam, the classification of nordiazepam may be revised to S7(A).).	Sedative/Anxiolytic	Lacks FDA approval. DEA Schedule IV.		
CONTROLLED	S7	A	Norepinephrine	Stimulant	Levophed.		
BANNED	S1		Norethandrolone	Anabolic	Lacks FDA approval. DEA Schedule III.		
BANNED	S1		Norethisterone (norethindrone)	Anabolic	Combipatch, Activella, Amabelz, Nortrel, Alyacen, Aranelle and multiple others (with estradiol).		
BANNED	S0		Norfenefrine	Antihypotensive	Lacks FDA approval.		
BANNED	S0		Norfenfluramine	Stimulant	Lacks FDA approval.		
BANNED	S0		Norfluoxetine (Seproxetine)	Antidepressant	Lacks FDA approval.		
BANNED	S0		Norpseudoephedrine (cathine)	Stimulant	Lacks FDA approval. DEA Schedule IV.		
BANNED	S0		Nortriptyline	Antidepressant	Pamelor.		
BANNED	S0		Noscapine	Antitussive	Lacks FDA approval.		
BANNED	S0		Nylidrin (buphenine)	Vasodilator	Lacks FDA approval.		

HISA listed as	HISA status	Penalty subclassification (specified substances are designated with 'x')	Substance	Action	Commercial name(s) (*developmental names*)	Detection time	Screening limit*
BANNED	S0		Octopamine (Octopamine is a metabolite of ephedrine. If there is credible evidence that the presence of octopamine is a consequence of exposure to ephedrine, the classification of octopamine may be revised to S7(A).).	Stimulant	Lacks FDC approval.		
BANNED	S0		Olanzapine	Antipsychotic	Zyprexa.		
BANNED	S0		Oliceridine	Opioid agonist	Olinvk. DEA Schedule I.		
BANNED	S0		Olmesartan	Antihypertensive	Benicar (with medoxomil).		
BANNED	S3		Olodaterol	Beta-2 agonist-bronchodilator	Striverdi Respimat, Stiolto Respimat (with tiotropium bromide).		
BANNED	S6		Olpadronate	Bisphosphonate	Lacks FDA approval.		
CONTROLLED	S7	C	Olsalazine	Anti-inflammatory	Diipentum.		
CONTROLLED	S7	C	Omeprazole	Anti-ulcer	Gastrogard	Restricted administration time: 24 hours. 2.2 g orally once daily for 4 doses (9 horses).	10 ng/mL in serum or plasma as omeprazole sulfide.
BANNED	S0		Opipramol	Antidepressant	Lacks FDA approval.		
BANNED	S3		Orciprenaline (Metaproterenol)	Beta-2 agonist-bronchodilator	Generic.		
BANNED	S0	(x)	Oripavine	Opioid	Plant alkaloid. DEA schedule I.		
BANNED	S0		Orphenadrine	Muscle relaxant	Generic.		
BANNED	S4		Ospemifene	Selective Estrogen Receptor Modulator (SERM).	Osphena.		
BANNED	S1		Ostarine (enobosarm)	Selective Androgen Receptor Modulator (SARM).	Lacks FDA approval.		
BANNED	S1		Oxabolone	Anabolic	Lacks FDA approval.		
BANNED	S0		Oxaflumazine	Psychosedative	Lacks FDA approval.		
BANNED	S1		Oxandrolone	Anabolic	Generic. DEA Schedule III.		
BANNED	S0		Oxaprozin	NSAID	Daypro.		
BANNED	S0		Oxazepam (Oxazepam is a metabolite of diazepam. If there is credible evidence that the presence of oxazepam in a horse's sample is the consequence of exposure to diazepam, the classification of oxazepam may be revised to S7(A).).	Anxiolytic	Generic. DEA Schedule IV.		
BANNED	S0		Oxazolam	Sedative/Anxiolytic	Lacks FDA approval. DEA Schedule IV.		
BANNED	S0		Oxcarbazepine	Anticonvulsant	Generic.		
BANNED	S0		Oxethazaine (Oxetacaine)	Local anesthetic	Lacks FDA approval.		
BANNED	S0		Oxilofrine (hydroxyephedrine)	Stimulant	Lacks FDA approval.		
BANNED	S0		Oxolamine	Antitussive	Lacks FDA approval.		
BANNED	S0		Oxprenolol	Antihypertensive	Lacks FDA approval.		
CONTROLLED	S7	C	Oxybuprocaine (Benoxinate, oxybucaine).	Local anesthetic	Atafluor Benox.		
BANNED	S0		Oxycodone	Opioid Analgesic	Oxycontin, Roxybond, Roxicodone, Oxaydo, Xtampza; Percocet, Percodan, Oxycet (with NSAID). DEA Schedule II.		
BANNED	S1		Oxyguno	Anabolic	Lacks FDA approval.		
BANNED	S1		Oxymesterone	Anabolic	Lacks FDA approval. DEA Schedule III.		
CONTROLLED	S7	B	Oxymetazoline	Nasal decongestant	Rhofade, Upneq, Visine.		

BANNED	S1		Oxymetholone	Anabolic	Discontinued, no FDA-approved product commercially available. DEA Schedule III.
BANNED	S0		Oxymorphone	Opioid analgesic	Generic. DEA Schedule II.
BANNED	S0		Oxypertine	Antipsychotic	Lacks FDA approval.
BANNED	S0		Oxyphencyclimine	Anticholinergic	Discontinued, no FDA-approved product commercially available.
BANNED	S0		Oxyphenonium	Anticholinergic	Discontinued, no FDA-approved product commercially available.
CONTROLLED	S7	B	Oxytocin	Uterine contraction	Pitocin.
BANNED	S0		Paliperidone	Antipsychotic	Invega.
BANNED	S0		Palmitoylethanolamid	Anti-inflammatory	Lacks FDA approval.
BANNED	S6		Pamidronate	Bisphosphonate	Generic.
CONTROLLED	S7	A	Pancuronium	Muscle relaxant	Generic.
CONTROLLED	S7	C	Pantoprazole	Anti-ulcer	Protonix.
BANNED	S0	(x)	Papaverine	Vasodilator	Plant alkaloid.
BANNED	S0		Paraldehyde	Anticonvulsant	Lacks FDA approval. DEA Schedule IV.
BANNED	S0		Paramethadione	Anticonvulsant	Discontinued, no FDA-approved product commercially available.
BANNED	S0		Paramethasone	Corticosteroid	Discontinued, no FDA-approved product commercially available.
BANNED	S0	(x)	Paraxanthine (Paraxanthine is a metabolite of caffeine. If there is credible evidence that the presence of paraxanthine in a horse's sample is the consequence of exposure to caffeine, the classification of paraxanthine may be revised to S7(B).).	Stimulant	Lacks FDA approval.
BANNED	S0		Parecoxib	NSAID	Lacks FDA approval.
BANNED	S0		Pargyline	Antihypertensive	Discontinued, no FDA-approved product commercially available.
BANNED	S0		Paroxetine	Antidepressant	Paxil.
BANNED	S2		Pegepoietin	Erythropoiesis	Micera.
BANNED	S2		Peginesatide	Erythropoiesis	Discontinued, no FDA-approved product commercially available.
BANNED	S0		Pemoline (Pemoline is a metabolite of aminorex, which is a metabolite of levamisole. If there is credible evidence that the detection of pemoline in a horse's sample is the consequence of exposure to levamisole, the classification of pemoline may be revised to S7(B).).	Stimulant	Discontinued, no FDA-approved product commercially available. DEA Schedule IV.
BANNED	S0		Pempidine	Ganglion blocker/ antihypertensive.	Lacks FDA approval.
BANNED	S0		Penbutolol	Antihypertensive	Discontinued, no FDA-approved product commercially available.
BANNED	S0		Penfluridol	Antipsychotic	Lacks FDA approval.
BANNED	S0		Pentaerythritol tetranitrate	Vasodilator	Lacks FDA approval.
CONTROLLED	S7	B	Pentazocine	Opioid analgesic	Generic (with naloxone hydrochloride). DEA Schedule IV.
BANNED	S0		Pentetrazol	Stimulant	Lacks FDA approval.
BANNED	S0		Pentifylline	Vasodilator	Lacks FDA approval.
CONTROLLED	S7	A	Pentobarbital	Barbiturate	Nembutal. DEA Schedule II.
CONTROLLED	S7	C	Pentoxyfylline	Vasodilator	Discontinued, no FDA-approved product commercially available.
BANNED	S0		Pentylenetetrazol	Stimulant	Lacks FDA approval.
BANNED	S2		Perfluorodecahydronophthalene	Oxygen transfer	Lacks FDA approval.
BANNED	S0		Perfluorodecalin (Octadecafluoronaphthalene).	Oxygen transport	Lacks FDA approval.

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BANNED	S2		Perfluorooctyl bromide	Oxygen transfer	Discontinued, no FDA-approved product commercially available.		
BANNED	S2		Perfluorotripropylamine	Oxygen transfer	Discontinued, no FDA-approved product commercially available.		
CONTROLLED	S7	B	Pergolide	Dopamine agonist	Prascend.		
BANNED	S0		Periciazine	Antipsychotic	Lacks FDA approval.		
BANNED	S0		Perindopril	Antihypertensive	Generic, Prestalia (with amlodipine besylate).		
BANNED	S0		Perlapine	Sedative/Hypnotic	Lacks FDA approval.		
BANNED	S0		Perphenazine	Antipsychotic	Generic.		
BANNED	S0		Phenacemide	Anticonvulsant	Discontinued, no FDA-approved product commercially available.		
BANNED	S0		Phenaglycodol	Sedative/Anxiolytic	Lacks FDA approval.		
BANNED	S0		Phenazocine	Opioid analgesic	Lacks FDA approval. DEA Schedule II.		
BANNED	S0		Phenazone	NSAID	Lacks FDA approval.		
CONTROLLED	S7	A	Phenazopyridine	Local anesthetic	Discontinued, no FDA-approved product commercially available.		
BANNED	S0		Phencyclidine (PCP)	Dissociative hallucinogen	Lacks FDA approval. DEA Schedule I.		
BANNED	S0		Phendimetrazine	Stimulant	Bontril. DEA Schedule II.		
BANNED	S0		Phenelzine	Antidepressant	Nardil.		
BANNED	S0		Phenibut	Anxiolytic	Lacks FDA approval.		
BANNED	S0		Phenindamine	Antihistamine	Lacks FDA approval.		
BANNED	S0		Phenindione	Anticoagulant	Discontinued, no FDA-approved product commercially available.		
BANNED	S0		Pheniramine	Antihistamine	Bromfed-DM (with dextromethorphan and pseudoephedrine).		
BANNED	S0		Phenmetrazine	Stimulant	Discontinued, no FDA-approved product commercially available.		
CONTROLLED	S7	A	Phenobarbital	Barbiturate	predates FDA, grandfathered. DEA schedule IV.		
BANNED	S0		Phenoxybenzamine	Antihypertensive	Dibenzyline.		
BANNED	S0		Phenprocoumon	Anticoagulant	Discontinued, no FDA-approved product commercially available.		
BANNED	S0		Phenpromethamine	Stimulant	Lacks FDA approval.		
BANNED	S0		Phensuximide	Anticonvulsant	Discontinued, no FDA-approved product commercially available.		
BANNED	S0		Phentermine	Stimulant	Adipex-P, Lomaira, Qsymia. DEA Schedule IV.		
CONTROLLED	S7	B	Phentolamine	Vasodilator	Oraverse.		
CONTROLLED	S7	C	Phenylbutazone	NSAID (3 NSAIDs (Flunixin, Ketoprofen, Phenylbutazone) are associated with a Detection Time of 48 hours. Only one of the three may be administered using a Withdrawal Interval based on the 48 hour Detection Time. To avoid a stacking violation (detection of more than 1 NSAID in a blood sample) the following secondary Detection Times should be applied for the following NSAIDs: Flunixin: 144 hours; Ketoprofen: 96 hours; Phenylbutazone: 168 hours.).	Butazolidin, Butatron, EquiBute, Phen Buta Vet, Bizolin, Butequine, Superiorbute, Pributazone.	Detection Time: 48 hours. 4.4 mg/kg single IV dose. (17 horses).	0.2 mcg/mL in serum or plasma. Note: The detection of more than one NSAID in a horse's post-Race or post-Official Workout blood and sample constitutes a Stacking Violation.
CONTROLLED	S7	B	Phenylephrine	Stimulant	Biorphen.		

BANNED	S0		Phenylpiracetam (Carphedon)	Stimulant	Lacks FDA approval.		
BANNED	S0		Phenylpropanolamine	Stimulant	Proin.		
BANNED	S0		Phenyltoloxamine	Antihistamine	Lacks FDA approval.		
CONTROLLED	S7	B	Phenytoin	Anticonvulsant	Dilantin, Phenytek.		
BANNED	S0		Pholcodine	Opioid antitussive	Lacks FDA approval; DEA Schedule I.		
BANNED	S0		Pholedrine	Stimulant	Lacks FDA approval.		
CONTROLLED	S7	A	Physostigmine	Acetylcholinesterase inhibitor	Antilirium.		
BANNED	S0		Picrotoxin	Stimulant	Lacks FDA approval.		
BANNED	S0		Piminodine	Opioid analgesic	Lacks FDA approval. DEA Schedule II.		
BANNED	S1		Pimobendan	Cardiac stimulant	Vetmedin.		
BANNED	S0		Pimozide	Antipsychotic	Generic.		
BANNED	S0		Pinazepam	Anxiolytic	Lacks FDA approval.DEA Schedule IV.		
BANNED	S0		Pinazepam	Sedative/Anxiolytic	Lacks FDA approval.		
BANNED	S0		Pindolol	Antihypertensive	Generic.		
BANNED	S0		Pipamazine	Anti-emetic	Lacks FDA approval.		
BANNED	S0		Pipamperone	Antipsychotic	Lacks FDA approval.		
BANNED	S0		Pipecuronium	Muscle relaxant	Discontinued, no FDA-approved product commercially available.		
BANNED	S0		Pipequaline	Anxiolytic	Lacks FDA approval.		
BANNED	S0		Piper Methysticum (kava)	Anxiolytic/Anti-inflammatory	Lacks FDA approval.		
BANNED	S0		Piperacetazine	Antipsychotic	Lacks FDA approval.		
BANNED	S0		Piperidione	Sedative	Lacks FDA approval.		
BANNED	S0		Piperidolate	Antispasmodic	Lacks FDA approval.		
BANNED	S0		Piperocaine	Local anesthetic	Lacks FDA approval.		
BANNED	S0		Piperoxan	Antihistamine/Antihypertensive	Lacks FDA approval.		
BANNED	S0		Pipotiazine	Antipsychotic	Lacks FDA approval.		
BANNED	S0		Pipradrol	Stimulant	Lacks FDA approval.		
BANNED	S0		Piquindone	Antipsychotic	Lacks FDA approval.		
BANNED	S0		Piracetam	Stimulant	Lacks FDA approval.		
BANNED	S0		Pirbuterol	Beta-2 agonist-bronchodilator	Discontinued, no FDA-approved product commercially available.		
BANNED	S0		Pirenzepine	Anticholinergic	Lacks FDA approval.		
BANNED	S5		Piretanide	Diuretic	Lacks FDA approval.		
BANNED	S0		Piritramide	Synthetic opioid analgesic	Lacks FDA approval.		
CONTROLLED	S7	B	Piroxicam	NSAID	Feldene.		
BANNED	S0		Pirprofen	NSAID	Lacks FDA approval.		
BANNED	S6		Pitcher Plant Extract	Analgesic	Sarapin.		
BANNED	S0		Pizotifen (Pizotylline)	Antimigraine	Lacks FDA approval.		
BANNED	S2		Platelet-Derived Growth Factor (PDGF).	Growth Hormone	.		
BANNED	S5		Polythiazide	Diuretic	Discontinued, no FDA-approved product commercially available.		
CONTROLLED	S7	A	Potassium Bromide	Anticonvulsant/anxiolytic	KBroVet-CA1.		
BANNED	S0		Practolol	Antiarrhythmic	Lacks FDA approval.		
BANNED	S2		Pralmorelin	Growth Hormone	Lacks FDA approval.		
CONTROLLED	S7	C	Pramoxine	Topical anesthetic	Epifoam (with hydrocortisone acetate), Pramosone (with hydrocortisone acetate).		
BANNED	S1		Prasterone (dehydroepiandrosterone, DHEA, 3βhydroxyandrost-5-en17-one).	Anabolic	Intrarosa.		
BANNED	S0		Prazepam	Sedative/Anxiolytic	Discontinued, no FDA-approved product commercially available. DEA Schedule IV.		
BANNED	S0		Prazosin	Antihypertensive	Minipress.		
CONTROLLED	S7	C	Prednisolone	Corticosteroid	Endogenous subtance (urine only) per IFHA.		Threshold: 0.01 mcg/mL free prednisolone in urine.
CONTROLLED	S7	C	Prednisone	Corticosteroid	Rayos.		
CONTROLLED	S7	A	Pregabalin	Anticonvulsant/Analgesic	Lyrica. DEA Schedule V.		
BANNED	S0		Prenylamine	Vasodilator	Lacks FDA approval.		
BANNED	S0		Pridinol	Anticholinergic	Lacks FDA approval.		

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BANNED	S0		Prifinium Bromide	Antispasmodic	Lacks FDA approval.		
CONTROLLED	S7	B	Prilocaine	Local anesthetic	Emla (with lidocaine), Oraqix (with lidocaine), Citanest (with epinephrine).		
CONTROLLED	S7	B	Primidone	Anticonvulsant	Mysoline.		
BANNED	S5		Probenecid	Anti-gout	Probalan.		
CONTROLLED	S7	B	Procainamide	Antiarrhythmic	Generic.		
CONTROLLED	S7	B	Procaine	Local anesthetic	(with Penicillin G)	17 mg (~17,000 IU) per kg IM.	25 ng/mL in serum or plasma.
BANNED	S0		Procarbazine	Anti-neoplastic	Matulane.		
BANNED	S3		Procaterol	Beta-2 agonist-bronchodilator	Lacks FDA approval.		
BANNED	S0		Prochlorperazine	Anti-nausea	Compro, Procomp, Compazine.		
BANNED	S0		Procyclidine	Anticholinergic	Discontinued, no FDA-approved product commercially available.		
BANNED	S0		Proglumide	Anti-ulcer	Lacks FDA approval.		
CONTROLLED	S7	B	Promazine	Sedative/Antipsychotic	Promazine Granules.		
CONTROLLED	S7	B	Promethazine	Antihistamine	Promethegan. Note: Component of multiple OTC cough/cold formulations.		
BANNED	S0		Pronethalol	Antiarrhythmic	Lacks FDA approval.		
CONTROLLED	S7	B	Propafenone	Antiarrhythmic	Rythmol.		
BANNED	S0		Propallylonal	Sedative/Hypnotic	Lacks FDA approval.		
BANNED	S0		Propanidid	Anesthetic	Lacks FDA approval.		
BANNED	S0		Propantheline	Anticholinergic	Discontinued, no FDA-approved product commercially available.		
CONTROLLED	S7	C	Proparacaine (Proxymetacaine)	Local anesthetic	Alcane.		
BANNED	S0		Propentophylline (propentofylline).	Phosphodiesterase inhibitor	Lacks FDA approval.		
BANNED	S0		Propiomazine	Antipsychotic	Discontinued, no FDA-approved product commercially available.		
BANNED	S0		Propionylpromazine	Sedative	Lacks FDA approval.		
BANNED	S0		Propiram	Opioid analgesic	Lacks FDA approval. DEA Schedule I.		
CONTROLLED	S7	A	Propofol	Anesthetic	PropoFlo, Rapanofal.		
BANNED	S0		Propoxycaine	Local anesthetic	Discontinued, no FDA-approved product commercially available.		
BANNED	S0		Propoxyphene	Opioid analgesic	Discontinued, no FDA-approved product commercially available.		
CONTROLLED	S7	A	Propranolol	Antiarrhythmic/Antihypertensive	Inderal, Hemangeol.		
BANNED	S0		Propylhexedrine	Stimulant	Benzedrex.		
BANNED	S0		Propyphenazone	NSAID	Lacks FDA approval.		
BANNED	S0		Proquazone	NSAID	Lacks FDA approval.		
BANNED	S1		Prostanazol	Anabolic	Lacks FDA approval. DEA Schedule III.		
BANNED	S0		Prothipendyl	Anxiolytic/Antihistamine	Lacks FDA approval.		
BANNED	S0		Protokylol	Bronchodilator	Discontinued, no FDA-approved product commercially available.		
BANNED	S0		Protriptyline	Antidepressant	Generic.		
BANNED	S0		Proxibarbital	Sedative/Anxiolytic	Lacks FDA approval.		
BANNED	S0		Proxyphylline	Bronchodilator	Lacks FDA approval.		
CONTROLLED	S7	B	Pseudoephedrine	Stimulant	Sudafed.		
BANNED	S0		Psilocin (Psilocyn)	Hallucinogen	Lacks FDA approval; DEA Schedule.		
CONTROLLED	S7	B	Pyridostigmine	Cholinesterase Inhibitor	Mestinon, Regonol.		
CONTROLLED	S7	B	Pyrilamine	Antihistamine	Histavet-P.		
BANNED	S0		Pyrithyldione	Sedative/Hypnotic	Lacks FDA approval.		
BANNED	S0		Pyrrobutamine	Antihistamine	Lacks FDA approval.		
BANNED	S0		Quazepam	Sedative	Doral. DEA Schedule IV.		
BANNED	S0		Quetiapine	Antipsychotic	Lacks FDA approval.		

BANNED	S0		Quinapril, Quinaprilat	Antihypertensive	Accuretic.		
BANNED	S1		Quinbolone	Anabolic	Lacks FDA approval.		
BANNED	S5		Quinethazone	Diuretic	Discontinued, no FDA-approved product commercially available.		
CONTROLLED	S7	B	Quinidine	Antiarrhythmic	Generic.		
BANNED	S0		Quinisocaine	Local anesthetic	Lacks FDA approval.		
CONTROLLED	S7	C	Rabeprazole	Anti-ulcer	Aciphex.		
BANNED	S0		Racemethorphan	Anti-Alzheimer's	Lacks FDA approval. DEA Schedule II.		
BANNED	S0		Racemorphan	Opioid agonist	Lacks FDA approval. DEA Schedule II.		
BANNED	S0		Raclopride	Antipsychotic	Lacks FDA approval.		
BANNED	S1	(x)	Ractopamine	Anabolic	Paylean, Optaflexx, Topmax.		
BANNED	S4		Raloxifene	Selective Estrogen Receptor Modulator (SERM).	Evista.		
BANNED	S4		Ramatercept (ACE–031)	Myostatin inhibitor	Lacks FDA approval.		
BANNED	S0		Ramifenazone (Isopyrin)	NSAID	Lacks FDA approval.		
BANNED	S0		Ramipril, metabolite Ramiprilat	Antihypertensive	Altace.		
CONTROLLED	S7	C	Ranitidine	Anti-ulcer	Generic.	Restricted administration time: 24 hours. 8 mg/kg orally twice daily for 7 doses. (9 horses).	40 ng/mL in serum or plasma.
BANNED	S0		Regadenoson	Cardiac stimulant	Lexiscan.		
BANNED	S0		Remifentanil	Synthetic opioid analgesic	Ultiva. DEA Schedule II.		
BANNED	S0		Remimazolam	Anesthetic	Byfavo. DEA schedule IV.		
BANNED	S0		Remoxipride	Antipsychotic	Lacks FDA approval.		
BANNED	S3		Reproterol	Beta-2 agonist-bronchodilator	Lacks FDA approval.		
CONTROLLED	S7	A	Reserpine	Antihypertensive/Depressant	Serpasil.		
BANNED	S0		Rilmazafone	Sedative/Hypnotic	Lacks FDA approval.		
BANNED	S3		Rimiterol	Beta-2 agonist-bronchodilator	Lacks FDA approval.		
BANNED	S6		Risedronate	Bisphosphonate	Actonel.		
BANNED	S0		Risperidone	Antipsychotic	Perseris Kit, Risperdal Consta, Risperdal.		
BANNED	S0		Ritanserin	Antidepressant	Lacks FDA approval.		
BANNED	S3		Ritodrine	Beta-2 agonist	Lacks FDA approval.		
BANNED	S0		Rivastigmine	Cholinesterase Inhibitor	Exelon.		
BANNED	S0		Rizatriptan	Selective Serotonin Receptor Agonist.	Maxalt.		
CONTROLLED	S7	A	Rocuronium	Muscle relaxant	Generic.		
BANNED	S0		Rofecoxib	NSAID	Discontinued, no FDA-approved product commercially available.		
CONTROLLED	S7	B	Romifidine	Sedative	Sedivet	Detection Time: 60 hours. 80 mcg/kg single IV dose (6 horses).	1 ng/mL in urine.
CONTROLLED	S7	A	Ropivacaine	Local anesthetic	Naropin.		
BANNED	S2		Roxadustat (FG–4592)	Erythropoiesis	Lacks FDA approval.		
BANNED	S0		Salicylamide	Analgesic	Lacks FDA approval.		
CONTROLLED	S7	C	Salicylic acid	NSAID	Paser		Threshold: 750 mcg/mL in urine or 6.5 mcg/mL in serum or plasma.
CONTROLLED—when administered via inhalation.	S7	B	Salmeterol	Beta-2 agonist-bronchodilator	Serevent, Advair (with fluticasone), Airduo (with fluticasone), Wixela (with fluticasone).		
BANNED	S1		SARM YK–11	Anabolic	Lacks FDA approval.		
CONTROLLED	S7	C (x)	Scopolamine (Hyoscine)	Anticholinergic	Transdermal Scop; Dietary substance per IFHA.		60 ng/mL total (free and conjugated) in urine.
CONTROLLED	S7	A	Secobarbital (Quinalbarbitone)	Sedative/Hypnotic	Discontinued, no FDA-approved product commercially available. DEA Schedule II.		
BANNED	S0		Selegiline	Antidepressant	Emsam, Zelapar.		
BANNED	S2		Sermorelin	Growth Hormone	Discontinued, no FDA-approved product commercially available.		
BANNED	S0		Sertraline	Antidepressant	Zoloft.		
BANNED	S0		Sibutramine	Stimulant	Discontinued, no FDA-approved product commercially available. DEA Schedule IV.		

HISA listed as	HISA status	Penalty subclassification (specified substances are designated with 'x')	Substance	Action	Commercial name(s) (*developmental names*)	Detection time	Screening limit*
BANNED	S0		Sildenafil	Phosphodiesterase inhibitor	Viagra.		
BANNED	S6		Snake Venoms	Neurotoxin	Lacks FDA approval.		
BANNED	S2		Somatrem	Growth Hormone	Protropin.		
BANNED	S2		Somatrogon	Growth Hormone	Lacks FDA approval.		
BANNED	S2		Somatropin	Growth Hormone	Lacks FDA approval.		
CONTROLLED	S7	B	Sotalol	Antiarrhythmic	Betapace, Sorine, Sotylize.		
BANNED	S2		Sotatercept	Growth Hormone	Lacks FDA approval.		
BANNED	S0	(x)	Sparteine	Antiarrhythmic	Lacks FDA approval.		
BANNED	S0		Spiperone	Antipsychotic	Lacks FDA approval.		
BANNED	S0		Spirapril, metabolite Spiraprilat	Antihypertensive	Discontinued, no FDA-approved product commercially available.		
BANNED	S5		Spironalactone	Diuretic	Aldactazide, Caarospir, Aldactone.		
BANNED	S4		Stamulumab (Myo-29)	Myostatin inhibitor	Lacks FDA approval.		
BANNED	S1		Stanozolol	Anabolic	Lacks FDA approval. DEA Schedule III.		
BANNED	S1		Stenbolone	Anabolic	Lacks FDA approval. DEA Schedule III.		
BANNED	S0		Strychnine	CNS stimulant	Lacks FDA approval. (Has anetodal use as contituent of unregulated appetite stimulants and leg paints. Extreme caution is advised when using these products.).		
BANNED	S0		Styramate	Muscle relaxant	Lacks FDA approval.		
CONTROLLED	S7	A	Succinylcholine	Muscle relaxant	Anectine, Quelicin.		
BANNED	S0		Sufentanil	Opioid analgesic	Sufenta, Dsuvia. DEA Schedule II.		
CONTROLLED	S7	C	Sulfasalazine	Disease-modifying anti-rheumatic.	Azulfadine.		
BANNED	S0		Sulfondiethylmethane	Sedative/Hypnotic	Lacks FDA approval. DEA Schedule III.		
BANNED	S0		Sulfonmethane	Sedative/Hypnotic	Lacks FDA approval. DEA Schedule III.		
BANNED	S0		Sulforidazine	Antipsychotic	Lacks FDA approval.		
BANNED	S0		Sulindac	NSAID	Generic.		
BANNED	S0		Sulpiride	Antipsychotic	Lacks FDA approval.		
BANNED	S0		Sultopride	Antipsychotic	Lacks FDA approval.		
BANNED	S0		Sumatriptan	Selective Serotonin Receptor Agonist.	Imitrex, Treximet [with naproxen].		
CONTROLLED	S7	C	Suprofen	NSAID	Discontinued, no FDA-approved product commercially available.		
BANNED	S0		Suxibuzone	NSAID	Lacks FDA approval.		
BANNED	S0	(x)	Synephrine	Stimulant	Lacks FDA approval.		
BANNED	S4		T3 (triiodothyronine)	Metabolic hormone	Lacks FDA approval.		
BANNED	S4		T4 (tetraiodothyronine/thyroxine).	Metabolic hormone	Thyro-Tabs Canine, Thyrokare.		
BANNED	S2		Tabimorelin	Growth Hormone	Lacks FDA approval.		
BANNED	S0		Tadalafil	Phosphodiesterase inhibitor	Cialis.		
BANNED	S0		Talbutal	CNS depressant	Discontinued, no FDA-approved product commercially available. DEA Schedule III.		
BANNED	S4		Tamoxifen	Selective Estrogen Receptor Modulator (SERM).	Soltamox.		
BANNED	S0		Tandospirone	Anxiolytic	Lacks FDA approval.		
BANNED	S0		Tapentadol	Opioid analgesic	Nucynta. DEA Schedule II.		
BANNED	S0		Telmisartan	Antihypertensive	Micardis.		

CONTROLLED	S7	B	Temazepam (Temazepam is a major metabolite of diazepam. If there is credible evidence that the presence of temazepam in a horse's sample is the consequence of exposure to diazepam, the classification of temazepam may be revised to S7(B).).	Anxiolytic	Restoril. DEA Schedule IV.		
BANNED	S0		Tenoxicam	NSAID	Lacks FDA approval.		
CONTROLLED	S7	B	Tepoxalin	NSAID	Zubrin.		
BANNED	S0		Terazosin	Antihypertensive	Generic.		
BANNED	S3		Terbutaline	Bronchodilator	Brethine.		
BANNED	S0		Terfenadine	Antihistamine	Lacks FDA approval.		
BANNED	S2		Tesamorelin	Growth Hormone	Egrifta.		
BANNED	S4		Testolactone	Aromatase inhibitor	Teslac. DEA Schedule III.		
BANNED	S2		Testolone	Selective Androgen Receptor Modulator (SARM).	Lacks FDA approval.		
BANNED—Fillies and Mares (unless in foal).	S1		Testosterone	Anabolic	Androderm, Testm, Vogelxo, Testopel, Aveed, Kyzatrex, Jatenzo, Xyosted. DEA Schedule III.		Threshold: 55 ng/mL total (free and conjugated) testosterone in urine OR 0.1 n/mL free testosterone in serum or plasma.
BANNED—Geldings	S1		Testosterone	Anabolic	Androderm, Testm, Vogelxo, Testopel, Aveed, Kyzatrex, Jatenzo, Xyosted. DEA Schedule III.		Threshold: 20 ng/mL total (free and conjugated) testosterone in urine OR 0.1 ng/mL free testosterone in serum or plasma.
BANNED	S0		Tetrabenazine (deutetrabenazine).	Neurotransmitter modulator	Xenazine, Austedo.		
CONTROLLED	S7	B	Tetracaine	Local anesthetic	Pliaglis [with lidocaine], Synera [with lidocaine], Kovanze [with oxymetazoline].		
BANNED	S1		Tetrahydrogestrinone	Anabolic	Lacks FDA approva. DEA Schedule III.		
CONTROLLED	S7	B	Tetrahydrozoline	Topical Decongestant	Visine.		
BANNED	S0		Tetrazepam	Anxiolytic	Lacks FDA approval. DEA Schedule IV.		
BANNED	S1		THC (tetrahydrocannabinol)	Psychoactive	Lacks FDA approval. DEA Schedule I.		
BANNED	S0	(x)	Thebaine	Opioid analgesic	Lacks FDA approval. DEA Schedule II.		
CONTROLLED	S7	B (x)	Theobromine	Bronchodilator/Vasodilator	Lacks FDA approval; Dietary substance per IFHA.		2 mcg/mL (free and conjugated) in urine OR 0.3 mcg/mL in serum or plasma.
CONTROLLED	S7	B (x)	Theophylline	Bronchodilator	Generic; Dietary substance per IFHA.		250 ng/mL (free and conjugated) in urine.
BANNED	S0		Thialbarbital	Sedative/Hypnotic	Lacks FDA approval.		
CONTROLLED	S7	A	Thiamylal	Sedative/Hypnotic	Surital, Biotal, Anestatal. DEA Schedule III.		
BANNED	S0		Thiethylperazine	Antipsychotic	Discontinued, no FDA-approved product commercially available.		
CONTROLLED	S7	A	Thiopental (pentothal)	Anesthetic	Combuthal Powder, Xylamed. DEA Schedule III.		
BANNED	S0		Thiopropazate	Antipsychotic	Lacks FDA approval.		
BANNED	S0		Thioproperazine	Antipsychotic	Lacks FDA approval.		
BANNED	S0		Thioridazine	Antipsychotic	Generc.		
BANNED	S0		Thiothixene	Antipsychotic	Generic.		
BANNED	S0		Thiphenamil (tifenamil)	Antispasmodic/Local anesthetic	Lacks FDA approval.		
BANNED	S0		Thonzylamine	Antihistamine/anticholinergic	Lacks FDA approval.		
BANNED	S0		Thozalinone	Antidepressant	Lacks FDA approval.		
BANNED	S2		Thymosin	Peptide hormone	Lacks FDA approval.		
BANNED	S0		Tiapride	Antipsychotic	Lacks FDA approval.		

HISA listed as	HISA status	Penalty subclassification (specified substances are designated with 'x')	Substance	Action	Commercial name(s) (*developmental names*)	Detection time	Screening limit*
BANNED	S0		Tiaprofenic acid	NSAID	Lacks FDA approval.		
BANNED	S1		Tibolone	Anabolic	Lacks FDA approval.		
BANNED	S6		Tildronate (Tiludronic Acid)	Bisphosphonate	Tildren.		
CONTROLLED	S7	A	Tiletamine	Anesthetic	Telazol [with zolazepam]. DEA Schedule III.		
BANNED	S0		Timiperone	Antipsychotic	Lacks FDA approval.		
BANNED	S3		Timolol	Antihypertensive	Istalol, Betimol, Timoptic.		
CONTROLLED	S7	B	Tiotropium	Bronchodilator	Spiriva.		
BANNED	S0		Tocainide	Antiarrhythmic	Discontinued, no FDA-approved product commercially available.		
BANNED	S0		Tofenacin	Antidepressant	Lacks FDA approval.		
BANNED	S0		Tofisopam	Anxiolytic	Lacks FDA approval.		
CONTROLLED	S7	A	Tolazoline	Vasodilator	Discontinued, no FDA-approved product commercially available.		
BANNED	S0		Tolfenamic Acid	NSAID	Lacks FDA approval.		
BANNED	S0		Tolmetin	NSAID	Discontinued, no FDA-approved product commercially available.		
BANNED	S5		Tolvaptan	Diuretic	Jynarque, Samsca.		
BANNED	S0		Tolycaine	Local anesthetic	Lacks FDA approval.		
BANNED	S0		Topiramate	Anticonvulsant	Topamax, Qsymia (with phentermine hydrochloride).		
BANNED	S4		Toremifene	Selective Estrogen Receptor Modulator (SERM).	Fareston.		
BANNED	S5		Torsemide (Torasemide)	Diuretic	Soaanz.		
CONTROLLED	S7	B	Tramadol	Opioid Analgesic	Ultram. DEA Schedule IV.		
BANNED	S0		Tramazoline	Sympathomimetic	Lacks FDA approval.		
BANNED	S0		Trandolapril (and metabolite, trandolaprilat).	Antihypertensive	Generic.		
CONTROLLED	S7	C	Tranexamic acid	Anti-fibrinolytic	Cykokapron.		
BANNED	S0		Tranylcypromine	Antidepressant	Parnate.		
BANNED	S0		Trazodone	Antidepressant	Generic.		
BANNED	S1		Trenbolone (trendione)	Anabolic	Finaplix; Revalor, Synovex (with Estradiol); Component (with estradiol and tylosin). DEA Schedule III.		
BANNED	S1		Trendione	Anabolic	Lacks FDA approval.		
BANNED	S0		Trestolone	Anabolic	Lacks FDA approval.		
BANNED	S3		Tretoquinol (trimetoquinol)	Beta-2 agonist-bronchodilator	Lacks FDA approval.		
CONTROLLED	S7	C	Triamcinolone	Corticosteroid	Vetalog, Kenalog.		0.5 ng/mL in urine.
BANNED	S5		Triamterene	Diuretic	Dyrenium.		
BANNED	S0		Triazolam	CNS depressant	Halcion. DEA Schedule IV.		
BANNED	S0		Tribromoethanol	Anesthetic	Lacks FDA approval.		
BANNED	S0		Tricaine methanesulfonate	Anesthetic	Syncaine.		
CONTROLLED	S7	C	Trichlormethiazide	Diuretic	Discontinued, no FDA-approved product commercially available.		
BANNED	S0		Trichloroethanol	Sedative/Hypnotic	Lacks FDA approval.		
BANNED	S0		Trichloroethylene	Anesthetic	Lacks FDA approval.		
BANNED	S0		Triclofos	Sedative	Discontinued, no FDA-approved product commercially available.		
BANNED	S0		Tridihexethyl	Anticholinergic	No FDA-approved product.		
BANNED	S0		Triflumeprazine	Sedative	Lacks FDA approval.		
BANNED	S0		Trifluoperazine	Antipsychotic	Generic.		
BANNED	S0		Trifluoromethylphenyl piperazine	Stimulant	Lacks FDA approval.		
BANNED	S0		Trifluperidol	Antipsychotic	Lacks FDA approval.		
BANNED	S0		Triflupromazine	Antipsychotic	Discontinued, no FDA-approved product commercially available.		
BANNED	S0		Triflupromazine	Antipsychotic	Discontinued, no FDA-approved product commercially available.		

BANNED	S0		Trihexyphenidyl	Anticholinergic	Discontinued, no FDA-approved product commercially available.		
BANNED	S0		Trimecaine	Local anesthetic	Lacks FDA approval.		
BANNED	S0		Trimeprazine (alimemazine)	Antihistamine	Temaril-P [with prednisolone].		
BANNED	S4		Trimetazidine	Angina treatment	Lacks FDA approval.		
BANNED	S0		Trimethadione	Anticonvulsant	Discontinued, no FDA-approved product commercially available.		
BANNED	S0		Trimethaphan	Antihypertensive/Anesthetic	Discontinued, no FDA-approved product commercially available.		
BANNED	S0		Trimipramine	Antidepressant	Generic.		
CONTROLLED	S7	B	Tripelennamine	Antihistamine	Re-Covr.		
BANNED	S0		Triprolidine	Antihistamine	Triacin-C (with codeine phosphate and pseudoephedrine hydrochloride).		
BANNED	S2		Triptorelin	Reproductive hormone modulator.	Triptodur, Trelstar.		
BANNED	S0		Trometamol (Tris hydroxymethylaminomethane [THAM]).	Alkalinizing agent	Discontinued, no FDA-approved product is commercially available.		
CONTROLLED	S7	B	Tropicamide	Ophthalmic Anticholinergic	Mydriacyl.		
BANNED	S0		Tuaminoheptane	Stimulant	Lacks FDA approval.		
BANNED	S0		Tubocurarine (Curare)	Muscle relaxant	Plant alkaloid. Discontinued, no FDA-approved product commercially available.		
BANNED	S3		Tulobuterol	Beta-2 agonist-bronchodilator	Lacks FDA approval.		
BANNED	S0		Tybamate	Anxiolytic	Lacks FDA approval.		
BANNED	S0		Valdecoxib	NSAID	Discontinued, no FDA-approved product commercially available.		
CONTROLLED	S7	A	Valerenic acid	Sedative	Plant derived.		
BANNED	S0		Valnoctamide	Sedative/Hypnotic	Lacks FDA approval.		
BANNED	S0		Valproate Sodium	Anticonvulsant	Discontinued, no FDA-approved product commercially available.		
BANNED	S0		Valsartan	Antihypertensive	Diovan, Entresto (with sacubitril).		
BANNED	S0		Vardenafil	Phosphodiesterase inhibitor	Levitra.		
BANNED	S2		Vascular-Endothelial Growth Factor (VEGF).	Growth Hormone	.		
CONTROLLED	S7	A	Vecuronium	Muscle relaxant	Generic.		
BANNED	S0		Vedaprofen	NSAID	Lacks FDA approval.		
BANNED	S0		Venlafaxine	Antidepressant	Pristiq.		
BANNED	S0		Veralipride	Antipsychotic	Lacks FDA approval.		
BANNED	S0		Verapamil	Antihypertensive	Verelan, Calan.		
BANNED	S3		Vilanterol	Beta-2 agonist-bronchodilator	Trelegy, Ellipta.		
BANNED	S0		Viloxazine	Antidepressant	Qelbree.		
BANNED	S0		Vinbarbital	Hypnotic	Lacks FDA approval. DEA Schedule III.		
BANNED	S0		Vinylbital	Sedative/Hypnotic	Lacks FDA approval.		
CONTROLLED	S7	C	Warfarin	Anticoagulant	Coumadin, Jantoven.		
BANNED	S2		Xenon	Hypoxia Inducible Factor activating agent.	.		
BANNED	S5		Xipamide	Diuretic	Lacks FDA approval.		
CONTROLLED	S7	B	Xylazine	Sedative/Analgesic	Rompun, Anased	Detection Time: 72 hours. 200 mg single IV dose..	SL: 10 ng/mL U (as 4–OH xylazine); 0.05 ng/mL B.
BANNED	S0		Xylometazoline	Stimulant	Afrin, Vicks Sinex.		
CONTROLLED	S7	B	Yohimbine	Stimulant	Antagonil.		
BANNED	S0		Zafirlukast	Asthma prevention	Accolate.		
BANNED	S0		Zaleplon	CNS depressant	Sonata. DEA Schedule IV.		
BANNED	S1		Zeranol	Anabolic	Ralgro.		
BANNED	S6		Ziconotide	Neurotoxin	Prialt.		
BANNED	S0		Zileuton	Asthma prevention	Zyflo.		
BANNED	S1	(x)	Zilpaterol hydrochloride	Anabolic	Zilmax, Heifermax.		
BANNED	S0		Zimeldine	Antidepressant	Lacks FDA approval.		
BANNED	S0		Ziprasidone	Antipsychotic	Geodon.		
CONTROLLED	S7	A	Zolazepam	Sedative/Anxiolytic	Telazol [with tiletamine].		
BANNED	S6		Zoledronic acid	Bisphosphonate	Reclast.		

HISA listed as	HISA status	Penalty subclassification (specified substances are designated with 'x')	Substance	Action	Commercial name(s) (*developmental names*)	Detection time	Screening limit *
BANNED	S0		Zolmitriptan	Selective Serotonin Receptor Agonist.	Zomig.		
BANNED	S0		Zolpidem	Sedative/Hypnotic	Ambien. DEA Schedule IV.		
BANNED	S0		Zomepirac	Anticonvulsant	Lacks FDA approval.		
BANNED	S0		Zonisamide	Anticonvulsant	Zonegran.		
BANNED	S0		Zopiclone	Sedative/Hypnotic	Lunesta. DEA Schedule IV.		
BANNED	S0		Zotepine	Antipsychotic	Lacks FDA approval.		
BANNED	S0		Zuclopenthixol	Antipsychotic	Lacks FDA approval.		

*(Unless otherwise designated as a Threshold). Where no value is listed for serum or plasma the substance is controlled by Laboratory Limit of Detection. Unless otherwise specified, urine values are in *hydrolyzed* urine.

5000. Equine Testing and Investigations Standards

5010. Purpose

(a) The Equine Testing and Investigations Standards have been developed pursuant to the Act and the Protocol.

(b) The first purpose of the Testing and Investigations Standards is to plan for intelligent and effective Testing, both in- and out-of-competition, and to maintain the integrity and identity of the Samples collected from the point of notification of a Covered Horse's selection for Sample collection, to the point the Samples are delivered to a Laboratory for analysis. To that end, these Testing and Investigations Standards establish protocols for test planning, notification of a Covered Horse's selection for Sample collection, preparing for and conducting Sample collection, security/post-test administration of Samples and documentation, and transport of Samples to Laboratories for analysis.

(c) The second purpose of the Testing and Investigations Standards is to establish rules for the efficient and effective gathering, assessment, and use of anti-doping and medication control intelligence, and for efficient and effective investigations into possible anti-doping and medication control rule violations.

5020. Definitions

Unless specified otherwise, capitalized terms used in these Testing and Investigations Standards have the meanings given to them in Rule 1020.

5100. Standards for Testing

5110. Planning Effective Testing

(a) The Agency is required to plan and implement intelligent and effective Testing on Covered Horses over which it has authority, and that is proportionate to the risk of doping and the misuse of medication, and effective to detect and to deter such practices. The objective of this Rule is to explain the steps that form part of a Risk Assessment to inform Testing plans in a way that best ensures clean competition and protects the health and welfare of Covered Horses.

(b) The Agency shall ensure that Covered Persons with a conflict of interest in the outcome of the Testing being contemplated are not involved in test planning or in the process of selection of Covered Horses for Sample collection.

(c) The Agency should monitor, evaluate, and update its Risk Assessment during the year or cycle in light of changing circumstances and in implementing its Testing plans.

5120. Risk Assessment

The Risk Assessment shall be conducted in good faith, reviewed and updated as required (at the discretion of the Agency), and should take into account (if available) the following information:

(a) discipline and individual factors that may result in a higher potential for adopting doping behavior or misuse of medication;

(b) available statistics and research on doping trends and misuse of medication, practices, and methods;

(c) reliable information received and intelligence developed on possible doping practices and misuse of medication;

(d) outcomes of previous test planning cycles, including past testing strategies;

(e) optimal times to apply specific test types (including analysis) to maximize opportunities for detecting and deterring doping;

(f) given the structure of the racing season (including generic racing schedules and training patterns), the time during the year a horse is most likely to be administered Banned Substances or be subjected to Banned Methods (to enhance or impair performance or impact welfare or soundness); and

(g) any Risk Assessment carried out by a State Racing Commission or racing authority in another country and provided to the Agency for the purposes of enhancing its Risk Assessment.

5130. Prioritizing Between Covered Horses, Types of Testing, and Samples

(a) The Agency should consider various factors in prioritizing the allocation of Testing resources. In addition, the Agency will use Target Testing to focus Testing resources where they are most needed within the overall pool of Covered Horses.

(b) Factors relevant to determining which Covered Horses should be the subject of Target Testing may include, but are not limited to, the following:

(1) Covered Horses serving a period of Ineligibility or a Provisional Suspension;

(2) Covered Horses who were high priority for Testing before retirement and are now returning from retirement to active participation;

(3) Covered Horses' testing history, including any abnormal Sample data (*e.g.,* an Atypical Finding reported by a Laboratory);

(4) Covered Persons' prior anti-doping and medication control rule violations and testing history, including any abnormal Sample data (*e.g.,* an Atypical Finding reported by a Laboratory);

(5) performance history, performance pattern, or high performance (*e.g.,* Trainer strike rate) without a commensurate testing record;

(6) repeated failure to meet whereabouts requirements;

(7) suspicious whereabouts filing patterns;

(8) moving to or training in a remote location;

(9) suspicious withdrawal or absence from expected Covered Horserace(s);

(10) association with a third party (such as a Trainer, Veterinarian, or Owner) with a history of involvement in doping or misuse of medication;

(11) injury;

(12) age and stage of career;

(13) financial incentives for improved or degraded performance, such as purse size, unusual betting patterns, or upcoming Claiming Race; or

(14) reliable information from a third party, or intelligence developed by or shared with the Agency.

(c) Target Testing is a priority because random Testing, or even weighted random Testing, does not ensure that all of the appropriate Covered Horses will be sufficiently tested. Covered Horses may be tested at any time and at any place where they are located (*e.g.,* Racetrack, Training Facility, private facility). The Protocol does not impose any reasonable suspicion or probable cause requirement for Target Testing or Testing.

(d) Testing that is not Target Testing should be determined based on the Risk Assessment. Testing should be conducted using a documented system for such selection, such as weighted testing (where Covered Horses are ranked using pre-determined criteria to increase or decrease the chances of selection) or random testing (where no pre-determined criteria are considered, and Covered Horses are chosen arbitrarily from a list or pool of names). Testing that is weighted should be prioritized and conducted according to defined criteria which may take into account the risk factors to ensure that a greater percentage of at risk Covered Horses are selected.

(e) Based on the Risk Assessment and prioritization process described above, the Agency should determine to what extent each of the following types of Testing is required to effectively detect and deter doping and misuse of medication within the sport:

(1) TCO2 and Post-Race Sample collection on Race Day;

(2) Post-Work Sample collection following Timed and Reported Workouts;

(3) Out-of-competition Sample collection;
(4) Sample matrices to be considered:
(i) urine;
(ii) hair;
(iii) blood; or
(iv) other matrices or methodologies, as available.

5140. Sample Analysis, Retention Strategy, and Further Analysis

(a) Laboratories shall analyze Samples for an Analytical Testing menu directed by the Agency. The Agency may also consider undertaking more extensive Sample analysis for Prohibited Substances or Prohibited Methods based on the assessed risk or any intelligence that the Agency may receive (*e.g.,* specific Prohibited Substances, gene doping).

(b) The Agency should develop a system for retention of Samples and related documentation to enable the Further Analysis of such Samples at a later date in accordance with Rule 3138. Such a system should comply with the requirements of the Laboratory Standards and should take into account the purposes of Sample analysis set out in Rule 3137, as well as (without limitation) the following elements:

(1) Laboratory recommendations (when available);

(2) new relevant detection methods to be introduced in the future;

(3) collected Samples that meet some or all of the criteria set out at Rule 5130; or

(4) the Agency determining based on available information or random selection that long-term storage or Further Analysis of the Samples is appropriate.

5150. Coordinating With State Racing Commissions and Other Entities

(a) In accordance with Rule 3132, the Agency may delegate Testing (or aspects thereof) to State Racing Commissions, subject to the applicable State Racing Commission electing to enter into an agreement with the Agency. For example, the Agency may utilize Sample Collection Personnel employed or designated by a State Racing Commission to collect Samples. Any state rule, law, or regulation preventing sample collection personnel employed or designated by a State Racing Commission from contracting with the Agency to collect Samples is pre-empted by this rule, which expressly permits such arrangements. Regardless of who collects a Sample, only the Agency shall receive the results of Sample analysis directly from the Laboratory.

(b) The Agency may delegate Testing (or aspects thereof) to qualified third parties, *e.g.,* by contracting a third-party sample collection service provider to collect Samples on behalf of the Agency.

(c) State Racing Commissions, Racetracks, Race Organizers, and other third parties may (at their own cost) contract with the Agency to collect additional Samples on Covered Horses in a manner that is consistent with the Act and the Protocol.

5200. Notification

5210. Requirements Prior to Notification

(a) Testing without advance notice should be the method for Sample collection except in circumstances where advance notice is required to facilitate the Testing. If the Responsible Person is with the Covered Horse at the time of notification, the Responsible Person should be the first Person notified that the Covered Horse has been selected for Sample collection. In order to ensure that Testing is conducted on a without advance notice basis, the Agency shall ensure Testing selection decisions are only disclosed in advance of Testing to those who need to know in order for such Testing to be conducted. Any notification to a third party shall be conducted in a secure and confidential manner to minimize the risk that the Responsible Person or other Covered Person will receive any advance notice of a Covered Horse's selection for Sample collection.

(b) The Agency shall appoint DCOs, BCOs, Chaperones, and other Sample Collection Personnel sufficient to facilitate Testing without advance notice and to ensure continuous observation of the Covered Horse and confirmation that the Covered Horse is in a secure location (a stall, for example) throughout the Sample collection process. Sample Collection Personnel must be trained for their assigned responsibilities, must not have a conflict of interest with respect to the performance or outcome of the Sample collection, and must be 18 or older. See Rule 5450 for more information on Sample Collection Personnel requirements.

(c) Sample Collection Personnel shall have official documentation provided by the Agency, evidencing their authority to collect a Sample from the Covered Horse.

(d) Information provided in the Covered Horse's whereabouts filing and registration with the Authority, or other equally reliable form of identification, shall be used by Sample Collection Personnel to confirm the identity of the Covered Horse. Confirmation of the Covered Horse's identity by any other method or failure to confirm the identity of the Covered Horse shall be documented, including through photographs, and reported to the Agency.

(e) The DCO or BCO shall establish the location of the selected Covered Horse and plan the approach and timing of notification, taking into consideration the specific circumstances of the location, schedule, and the situation in question (*e.g.,* Covered Horserace, Timed and Reported Workout, Vets' List Workout).

5220. Requirements for Notification

(a) Out-of-competition Sample collection.

(1) The Sample Collection Personnel will seek to locate the Covered Horse based on available data regarding Racetracks and Training Facilities or based on whereabouts information.

(2) If the Sample Collection Personnel are able to locate the Covered Horse, notification of out-of-competition Sample collection shall ordinarily take place in person, but may, if necessary, take place by telephone, text message, or email using the contact details provided by the Responsible Person upon registration with the Authority.

(3) If the Sample Collection Personnel are not able to locate the Covered Horse based on available data or whereabouts information, notification of out-of-competition Sample collection shall take place by telephone, text message, or email, using the contact details provided by the Responsible Person upon registration with the Authority.

(4) In accordance with Rule 3215, the Responsible Person shall ensure that the Covered Horse is produced for Sample collection immediately upon notification by a duly authorized person in accordance with the Agency's procedures if the Covered Horse is present at the location where notification is attempted. If the Covered Horse is not present at the location where notification is attempted (including due to a Whereabouts Failure), the Responsible Person shall ensure that the Covered Horse is produced for Sample collection within 6 hours of notification by a duly authorized Person in accordance with the Agency's procedures, except that the Agency may extend the 6-hour period if it considers that extenuating circumstances justify doing so.

(5) At the time of notification, the Sample Collection Personnel shall inform the Responsible Person or Nominated Person:

(i) that the Covered Horse is required to undergo Sample collection;

(ii) that immediate access to the Covered Horse shall be granted, and (if

that is not possible because the Covered Horse is not present at the location), the Responsible Person has 6 hours to produce the Covered Horse for Sample collection, failing which significant Consequences may apply in accordance with Rule 3215;

(iii) that the Sample collection process shall start immediately, unless there are valid reasons for a delay (as determined by the DCO or BCO);

(iv) that the Sample collection process shall take place in a secure location determined suitable by the DCO or BCO (*e.g.,* the horse's stall);

(v) of the responsibilities of the Responsible Person or Nominated Person with respect to the Covered Horse, including the requirement to:

(A) ensure that the Covered Horse remains under continuous observation of Sample Collection Personnel at all times until the completion of the Sample collection procedure;

(B) not leave the Covered Horse unattended once the Responsible Person or Nominated Person is notified and contact is made with the Covered Horse until the completion of the Sample collection procedure;

(C) produce on request identification for himself or herself and the Covered Horse. Identification for the Responsible Person or Nominated Person should include his or her Authority registration number or (if not available) valid photo identification. The Sample Collection Personnel may take photographs of the individual(s) and the Covered Horse if identification is not provided;

(D) comply and cooperate with Sample collection procedures and processes (the Responsible Person or Nominated Person should also be advised of the possible Consequences of failure to comply, including pursuant to Rule 3215 and 3510); and

(E) ensure that the Covered Horse is not administered any medications or supplements from notification of Sample collection until completion of Sample collection, unless there is a medical emergency, as determined by a Regulatory Veterinarian or (if not available) a Veterinarian.

(6) The Sample Collection Personnel shall have the Responsible Person or Nominated Person sign an appropriate form to acknowledge and accept the notification of Sample collection. If the Responsible Person or Nominated Person refuses to sign the form, or evades notification, the Sample Collection Personnel should, if possible, inform the Responsible Person or Nominated Person of the Consequences of a failure to comply, and the Sample Collection Personnel (if not the DCO) shall immediately report all relevant facts to the DCO or BCO. When possible, the Sample Collection Personnel shall continue the Sample collection. The DCO shall document the facts in a detailed report and report the circumstances to the Agency.

(7) A Nominated Person may be replaced by another Nominated Person during the Sample collection process upon reasonable request to the Sample Collection Personnel so long as the new Nominated Person (i) falls within the scope of the definition of Nominated Person, (ii) completes the relevant portions of the Sample collection paperwork, and (iii) does not interfere with the Sample collection process. Any changes of Nominated Person during the Sample collection process shall be documented by the Sample Collection Personnel.

(b) Post-Race Sample collection.

(1) Pursuant to Rule 1020, a Post-Race Sample includes any Sample collected by or on behalf of the Agency from a Covered Horse where notification of such Sample collection takes place no more than 1 hour after the end of a Covered Horserace in which a Covered Horse participates or is entered, or the end of a Vet's List Workout in which a Covered Horse participates.

(2) A member of the Sample Collection Personnel will tag or otherwise identify a Covered Horse selected for Sample collection (ordinarily in the unsaddling area) within 1 hour of the end of the Covered Horserace or Vets' List Workout and chaperone the Covered Horse, to the extent possible, from the point of tagging/notification until the end of the Sample Collection Session. Such notification should inform the Responsible Person or Nominated Person:

(i) that the Covered Horse is required to undergo Sample collection;

(ii) that the Covered Horse must report to the Test Barn as soon as practicable, unless there are valid reasons for a delay (as determined by the DCO or BCO);

(iii) of the location of the Test Barn;

(iv) of the responsibilities of the Responsible Person or Nominated Person with respect to the Covered Horse, including the requirement to:

(A) ensure that the Covered Horse remains under observation of Sample Collection Personnel, to the extent possible, until the completion of the Sample Collection Session;

(B) not leave the Covered Horse unattended to the extent possible once the Responsible Person or Nominated Person is notified and contact is made with the Covered Horse until the Sample Collection Session is completed;

(C) produce on request identification for himself or herself (which shall include his or her Authority registration number) and the Covered Horse. The Sample Collection Personnel may take photographs of the individual(s) and the Covered Horse if no identification is provided;

(D) comply and cooperate with Sample collection procedures and processes (the Responsible Person or Nominated Person should be advised of the possible Consequences of a failure to comply, including pursuant to Rule 3215 and 3510);

(E) ensure that the Covered Horse is not administered any medications or supplements (or similar items) from notification of Sample collection until completion of the Sample Collection Session, unless there is a medical emergency, as determined by the Test Barn Veterinarian or a Regulatory Veterinarian; and

(F) confirm that the water bucket of the Covered Horse is clean and acceptable and ensure that it is only used for that Covered Horse during the Sample Collection Session.

(3) The Sample Collection Personnel shall notify the Responsible Person or Nominated Person and document the time and the individual notified (*e.g.,* by taking a photograph or by having the Responsible Person or Nominated Person sign an appropriate form or through such other reasonable and appropriate measure under the circumstances), and the Responsible Person or Nominated Person must sign an appropriate form to acknowledge and accept the notification no later than once in the Test Barn or other secure location. If the Responsible Person or Nominated Person refuses to sign the form, or evades the notification, the Sample Collection Personnel should, if possible, inform the Responsible Person or Nominated Person of the Consequences of a failure to comply, and the Sample Collection Personnel (if not the DCO or BCO) shall immediately report all relevant facts to the DCO or BCO. When possible, the Sample Collection Personnel shall continue the Sample collection. The DCO or BCO shall document the facts in a detailed report and report the circumstances to the Agency.

(4) From the time that a Covered Horse is tagged or identified for Sample collection until the end of the Sample collection process, the Sample Collection Personnel shall keep the Covered Horse under observation or ensure the Covered Horse is in a secure location (a stall, for example).

(5) A Nominated Person may be replaced by another Nominated Person

during the Sample collection process upon reasonable request to the Sample Collection Personnel, so long as the new Nominated Person (i) falls within the scope of the definition of Nominated Person, (ii) completes the relevant portions of the Sample collection paperwork, and (iii) does not interfere with the Sample collection process. Any changes of Nominated Person during the Sample collection process shall be documented by the Sample Collection Personnel.

(c) Pre-race Sample collection.

Blood samples may be collected before a Covered Horserace or Vets' List Workout for purposes of TCO2 testing in accordance with Rule 5430. Sample Collection Personnel shall provide notification of Sample collection in accordance with paragraph (a) or (b) above depending on the circumstances.

(d) Post-Work Sample collection.

Samples may be collected after a Timed and Reported Workout in accordance with Rule 5400. All Banned Substances and any Controlled Medication Substances specifically identified on the Prohibited List as prohibited during Timed and Reported Workouts are prohibited from being present in a Post-Work Sample. Sample Collection Personnel shall provide notification of Sample collection in accordance with paragraph (a) and (b) above depending on the circumstances.

5230. Requests for Delay

(a) The DCO or BCO may consider any reasonable request from the Responsible Person or Nominated Person or third party for permission to delay beginning the Sample collection process following acknowledgment and acceptance of notification. The DCO or BCO may grant such permission only if the Covered Horse can remain under continuous observation of Sample Collection Personnel at all times until the completion of the Sample collection procedure. The DCO or BCO shall otherwise reject a request for delay, unless there is a medical emergency (as determined by a Test Barn Veterinarian or Regulatory Veterinarian or, if not available for an out-of-competition Sample collection, a Veterinarian) or other circumstances so require it (as determined by the DCO or BCO).

(b) For Race Day Sample collection, delayed reporting to the Test Barn may be permitted in accordance with paragraph (a) on account of:

(1) participation in the winner's circle;

(2) obtaining necessary medical treatment if there is a medical emergency, as determined by a Regulatory Veterinarian or Test Barn Veterinarian; or

(3) any other reasonable circumstances, as determined by the DCO or BCO, taking into account any instructions of the Agency.

(c) For out-of-competition Sample collection, delayed reporting for Sample collection may be permitted in accordance with paragraph (a) on account of:

(1) completing a training session or a cool down;

(2) receiving necessary medical treatment if there is a medical emergency, as determined by a Regulatory Veterinarian or (if not available) a Veterinarian; or

(3) any other reasonable circumstances, as determined by the DCO or BCO, taking into account any instructions of the Agency.

(d) Sample Collection Personnel shall document any reasons for delay in reporting for Sample collection.

(e) If immediate access to the Covered Horse is not granted, the DCO or BCO shall report to the Agency a possible failure to comply. If at all possible, the DCO or BCO shall proceed with collecting a Sample.

5300. Preparing for the Sample Collection Session

5310. General Requirements

(a) The Agency should establish a system for obtaining all of the information necessary to ensure that the Sample Collection Session can be conducted effectively.

(b) For Race Day Sample collection, a Test Barn should be used that, where possible, is used solely as a Test Barn for the duration of all Sample Collection Sessions. Unauthorized persons should not be permitted access to the Test Barn. Should the DCO or BCO determine the Test Barn is unsuitable, he or she shall seek an alternative location.

(1) Unless otherwise approved by the Agency, the Test Barn should be equipped with:

(i) an enclosed area for Covered Horses to walk in or adjacent to the Test Barn that is large enough to accommodate several horses and allow for continuous observation of the Covered Horses;

(ii) sufficient enclosed stalls for the number of Sample collections that permit observation of the collection process and provide for the protection of Covered Horses undergoing Sample collection and space for Sample Collection Personnel and up to 2 Covered Persons per Covered Horse;

(iii) facilities and equipment for the collection, identification, and storage of Samples, including one refrigerator or cooler that can be locked or otherwise secured, and one freezer that can be locked or otherwise secured;

(iv) an area and appropriate facilities for a Covered Horse to be bathed;

(v) a table or other suitable surface;

(vi) access to hot and cold running water;

(vii) clean water buckets for each Covered Horse; and

(viii) a security officer to ensure no unauthorized person is permitted in the Test Barn.

(2) The Test Barn Veterinarian shall be responsible for managing horse welfare in the Test Barn. For example, this includes determining when and how to manage congestion in the Test Barn, when to release Covered Horses from the Test Barn, and whether (if necessary) to permit treatment of a Covered Horse. A Covered Horse in the Test Barn may receive medical treatment only with the prior authorization of the Test Barn Veterinarian or a Regulatory Veterinarian.

(c) For out-of-competition Sample collection, the DCO or BCO will determine a suitable location to be used for the Sample Collection Session. If at a stable, by default the Covered Horse's own stall should be used.

5320. Sample Collection Equipment

(a) General. Sample Collection Personnel should ensure that they have and use Sample Collection Equipment provided by or approved by the Agency.

(b) Minimum requirements. Sample Collection Equipment should, at a minimum:

(1) have a unique numbering system for all bottles, containers, tubes, security bags, bar code labels, or other items used to seal and transport the Samples;

(2) have a Tamper Evident sealing system;

(3) not reveal the identities of the Responsible Person and Covered Horse on the equipment (*i.e.,* only the unique numbering system shall be used on the equipment);

(4) be clean and sealed prior to use;

(5) be constructed of a material and sealing system approved by the Agency that should:

(i) be able to withstand the handling conditions and environment in which the equipment will be used or subjected to, including, but not limited to, transportation, Laboratory analysis, and long-term storage;

(ii) maintain the integrity (chemical and physical properties) of the Sample for Laboratory analysis;

(iii) if the Sample will be transported or stored frozen, withstand temperatures

of up to −20 °C and a minimum of 3 freeze/thaw cycles;

(iv) be transparent or translucent so the Sample is visible;

(v) have a sealing system that allows verification by the Responsible Person or Nominated Person and the DCO or BCO that the Sample is correctly sealed in the bottles or containers;

(vi) be designed to prevent leakage during transportation (including by air);

(vii) have been manufactured under the internationally recognized ISO 9001 certified process which includes quality control management systems; and

(viii) be able to be resealed after initial opening by a Laboratory to maintain the integrity of the Sample and Chain of Custody in accordance with the requirements for long-term storage and Further Analysis; and

(6) include a transport device or packaging that is suitable to the Sample at issue.

(c) Additional requirements applicable to urine Samples. In addition to the requirements of paragraph (b) of this Rule 5320, Sample Collection Equipment used in the collection of urine Samples shall include:

(1) a collection vessel with the capacity to contain a minimum of 50 mL volume of urine;

(2) A and B bottles with the capacity to contain a minimum 25 mL volume of urine; and

(3) visual markings on the A and B bottles and the collection vessel, indicating the minimum volume of urine required and the maximum volume levels that allow for expansion when frozen without compromising the bottle, container, or sealing system.

(d) Specific requirements applicable to blood Samples. In addition to the requirements of paragraph (b) of this Rule 5320, Sample Collection Equipment used in the collection of blood Samples shall include:

(1) a needle for blood sampling; and

(2) blood collection tubes, each with a capacity to contain a minimum of 8 mL of blood, to ensure a minimum total of 30 mL of blood is collected (except for TCO2 testing, where a lesser volume may be collected at the discretion of the Agency).

(e) Specific requirements applicable to Hair Samples and other Samples. Sample Collection Personnel should ensure that they have the necessary equipment for hair Sample collection and any other approved Testing matrices or methodologies, in accordance with any procedures or guidance issued by the Agency.

5400. Conducting the Sample Collection Session

5410. Collection of Samples

(a) The Agency shall be responsible for the overall conduct of the Sample Collection Session, with specific responsibilities delegated to the DCO or BCO. Sample collection may be performed only by Sample Collection Personnel approved by the Agency. The Agency may issue supplemental procedures or guidance regarding Sample collection procedures as it considers necessary.

(b) The following Persons may be authorized or required to be present during the Sample Collection Session:

(1) Sample Collection Personnel sufficient to notify, chaperone, and collect the required Samples must be present during the Sample Collection Session;

(2) the Responsible Person or Nominated Person should be present during the Sample Collection Session. If the Responsible Person or Nominated Person is not present, this will be documented by the DCO or BCO;

(3) no more than 2 Covered Persons (including the Responsible Person or Nominated Person) may be present during the Sample collection for a Covered Horse, except in exceptional circumstances, as determined by the DCO or BCO; and

(4) any Person authorized by the Agency (*e.g.,* a person who is involved in the training or supervision of Sample Collection Personnel) may be present during the Sample Collection Session.

(c) The Sample Collection Personnel will coordinate with the Test Barn security officer to ensure that no unauthorized person is permitted in the Test Barn.

(d) For Race Day Sample collection, the Covered Horse shall remain in the Test Barn through to the end of the Sample collection when the Covered Horse is released from the Test Barn by the DCO.

(e) Samples shall be collected in a manner that ensures:

(1) the Sample is of a quality and quantity that meets the relevant Sample suitability and analytical requirements;

(2) the Sample has not been contaminated or otherwise tampered with in any way at the time of collection;

(3) the Sample is clearly and accurately identified; and

(4) the Sample is securely sealed in a Tamper Evident kit.

(f) The Sample Collection Personnel shall collect the Sample from the Covered Horse according to the following protocol(s) for the specific type of Sample collection:

(1) Rule 5420: Collection of urine Samples;

(2) Rule 5430: Collection of blood Samples; and

(3) Rule 5440: Collection of hair Samples.

(g) Except for Samples collected for TCO2 testing (see Rule 5430(p) below), each Sample collected shall be split into an A and a B Sample at the time of collection.

(h) In general, the relevant Sample Collection Personnel should wear a new pair of disposable gloves when handling the Sample collection vessel/tubes and when sealing Samples.

(i) The following information shall be recorded at a minimum on the Sample collection documentation for a Sample Collection Session:

(1) date and time of notification and name of notifying Sample Collection Personnel;

(2) the arrival time of the Covered Horse to the Test Barn (for Race Day Sample collection) or secure location (for out-of-competition Sample collection);

(3) the name of the Responsible Person and Nominated Person;

(4) any changes in the Nominated Person during the Sample Collection Session;

(5) the contact information of the Responsible Person or Nominated Person(s), if requested;

(6) the name of the Covered Horse;

(7) the sex of the Covered Horse (intact male, mare, gelding);

(8) the color of the Covered Horse;

(9) the means by which the Covered Horse's identity is validated (*e.g.,* microchip number, or branding);

(10) the name and signature of the Sample Collection Personnel involved in the Sample collection process for the Covered Horse;

(11) the name of additional Covered Persons (if any) present during the Sample Collection Session;

(12) the Sample code number(s);

(13) the date and time of sealing of each Sample collected and date and time of completion of entire Sample Collection Session;

(14) the location at which the Sample Collection Session took place;

(15) the type of the Sample collected (*e.g.,* urine, blood, hair);

(16) the type of test, *e.g.,* Race Day (TCO2 or Post-Race Sample), Post-Work, or out-of-competition;

(17) whether furosemide was administered to the Covered Horse within 48 hours before Post-Time;

(18) any required Laboratory information on the Sample (*e.g.,* for

urine or blood Sample, its volume; for hair Sample, mane/tail and pulled/cut);

(19) for a blood Sample, the information to be recorded by the DCO or BCO as outlined in Rule 5430;

(20) any irregularities in procedures (*e.g.,* if advance notice was provided, if there were any delays in arriving to the Test Barn or secure location, or any anomalous behavior by those present at the collection);

(21) any comments or concerns from the Responsible Person or Nominated Person regarding the conduct of the Sample Collection Session; and

(22) acknowledgement by the Responsible Person or Nominated Person of the processing of Sample collection data and a description of such processing.

(j) At the conclusion of the Sample Collection Session the Responsible Person or Nominated Person and DCO or BCO shall sign appropriate documentation to indicate their satisfaction (or otherwise) that the documentation accurately reflects the details of the Covered Horse's Sample Collection Session. The DCO (or BCO) shall also provide the Responsible Person or Nominated Person the opportunity to document any concerns he or she may have concerning the manner in which Sample Collection Session was conducted.

(k) The Agency may require the Sample Collection Personnel to complete supplemental documentation regarding the Sample Collection Session. For example, any anomalous behavior by the Responsible Person, Nominated Person, or other Covered Persons or Persons associated with the Covered Horse or Responsible Person, or behavior with the potential to compromise the Sample collection shall be recorded in detail by the Sample Collection Personnel. If the Covered Horse requires any emergency medical treatment, that shall be recorded in detail by the Sample Collection Personnel.

(l) Only the DCO or BCO is authorized to end a Sample Collection Session and so release a Covered Horse from the Test Barn or Sample collection location. Only the DCO or BCO, in consultation with the Test Barn Veterinarian for any Race Day Sample collection, is authorized to temporarily release a Covered Horse from the Test Barn or Sample collection location.

(m) Subject to Rule 5200, no photography or audio or video recording of the Sample Collection Session is permitted. Instead, the Sample collection documentation will be the definitive record of the Sample Collection Session, and any comments regarding the Sample Collection Session must be recorded on the Sample collection documentation. If a Covered Person insists on photographing or recording the Sample Collection Session (in whole or in part) in violation of this Rule, the Sample Collection Session should continue, but a case may be brought against the Covered Person under Rule 3510. If the conduct of the Covered Person results in the Sample Collection Session being discontinued, a case may be brought against the Covered Person (on its own or in the alternative) for an Anti-Doping Rule Violation under Rule 3215 or Rule 3216. For the avoidance of doubt, any conduct by a Nominated Person or other Person or employee, agent, or associate of the Responsible Person in relation to a Sample Collection Session may in appropriate circumstances be imputed to the Responsible Person for these purposes.

(n) If the Agency collects any Sample(s) from a deceased horse:

(1) Sample collection shall not interfere with any life-saving treatment.

(2) Sample(s) should ordinarily be collected from the Covered Horse before it is removed from the relevant venue where it suffered a fatal condition, but otherwise may be collected at the location where the Covered Horse is transported to (*e.g.,* veterinary clinic).

(3) The Agency shall afford the Responsible Person and Nominated Person the opportunity to waive attendance at the Sample collection if such attendance would cause undue distress.

(4) The Sample collection shall proceed in accordance with the applicable Sample collection procedures, amended as necessary to account for the specific circumstances.

5420. Collection of Urine Samples

(a) Urine Samples may be collected and analyzed for any anti-doping analytical matrix or methodology, as determined by the Agency, and in accordance with the Prohibited List and related Technical Documents.

(b) The relevant Sample Collection Personnel will retain control of the Sample collection vessel.

(c) The Responsible Person or Nominated Person will be instructed to examine the Sample collection vessel to ensure that it will not affect the integrity of the urine Sample.

(d) The relevant Sample Collection Personnel will then open and use the selected Sample collection vessel to collect the urine Sample.

(e) The relevant Sample Collection Personnel shall ensure as unobstructed a view as possible of the Sample leaving the Covered Horse's body and shall continue to observe the Sample after provision until the Sample is securely sealed.

(f) When the Covered Horse passes urine, the collection vessel should be positioned to collect as much urine as possible.

(g) The volume of urine required for a full Sample is a minimum of 25 mL for each of the A Sample and B Sample (minimum of 50 mL in total). If during the initial attempt less than 50 mL is obtained, the relevant Sample Collection Personnel should try to collect additional urine.

(h) The Test Barn Veterinarian (or a Regulatory Veterinarian), in consultation with the DCO, shall determine if a Covered Horse is intractable, and (if so) when the urine Sample Collection Session should be terminated. If a urine Sample is not collected because the Covered Horse is intractable, a blood Sample should be collected (in addition to any other Sample, *e.g.,* hair). The Sample Collection Personnel should record the reasons for terminating any Sample collection on the Sample collection documentation.

(i) Once the volume of urine provided by the Covered Horse is deemed sufficient, the relevant Sample Collection Personnel will bring the Sample to the designated processing area.

(j) The relevant Sample Collection Personnel will select the Sample collection kit and will open, inspect, and confirm Sample codes numbers match and ask the Responsible Person or Nominated Person to confirm the same.

(k) If the Responsible Person or Nominated Person is not satisfied with the chosen Sample Collection Equipment, this shall be recorded by the DCO. If the DCO does not agree with the Responsible Person or Nominated Person that the equipment is unsatisfactory, the DCO shall inform the Responsible Person or Nominated Person that the Sample Collection Session is proceeding. If the DCO agrees with the Responsible Person or Nominated Person that the equipment is unsatisfactory, the DCO shall use other available equipment that the DCO determines is satisfactory. If no such equipment is available, the DCO shall terminate the Sample Collection Session, and the termination and its specific reason shall be recorded by the DCO.

(l) Once the Sample collection kit has been selected, the relevant Sample Collection Personnel will pour and split the urine Sample into A and B Sample

collection bottles within the view of the Responsible Person or Nominated Person.

(m) The relevant Sample Collection Personnel will seal the A and B bottles within the view of the Responsible Person or Nominated Person. Once closed, the relevant Sample Collection Personnel will check that the bottles have been properly sealed.

(n) The Sample Collection Personnel will complete all the required Sample collection documentation, and the Responsible Person will subsequently be provided a copy for his or her records.

(o) Urine should only be discarded when both the A and B bottles or containers have been filled to the maximum amount they can hold and have been sealed. Any excess urine should be disposed of into a drain (ground drain or sink) or into a bin or waste pile, if necessary. The Responsible Person or Nominated Person shall be given the option to observe the disposal of any residual urine not sent to the Laboratory for analysis.

5430. Collection of Blood Samples

(a) Blood collection shall be conducted by the BCO.

(b) Blood Samples may be collected and analyzed for any anti-doping analytical matrix or methodology, as determined by the Agency, and in accordance with the Prohibited List and related Technical Documents.

(c) The DCO or BCO will select a Sample collection kit containing a sufficient number of blood collection tubes (two or three of which will be paired together as the A Sample, and the third or fourth of which will constitute the B Sample), and the other necessary equipment needed to collect a blood Sample.

(d) If the Responsible Person or Nominated Person is not satisfied with the chosen Sample Collection Equipment, this shall be recorded by the DCO or BCO. If the DCO or BCO does not agree with the Responsible Person or Nominated Person that the equipment is unsatisfactory, the DCO or BCO shall inform the Responsible Person or Nominated Person that the Sample Collection Session is proceeding. If the DCO or BCO agrees with the Responsible Person or Nominated Person that the equipment is unsatisfactory, the DCO or BCO shall use other available equipment that the DCO or BCO determines is satisfactory. If no such equipment is available, the DCO or BCO shall terminate the Sample Collection Session, and this termination and its specific reason shall be recorded by the DCO or BCO.

(e) Once the Sample collection kit has been selected, the relevant Sample Collection Personnel will open, inspect, and confirm Sample codes numbers within the kit match and ask the Responsible Person or Nominated Person to confirm the same.

(f) The BCO will determine the most suitable location of venipuncture;

(g) The BCO shall safely dispose of used blood sampling equipment not required to complete the Sample Collection Session.

(h) Subject to paragraph (l) below, the BCO will collect the amount of blood that will adequately satisfy the relevant analytical requirements for the Sample analysis to be performed. The minimum total volume requirement is 30 mL whole blood, plasma, or serum, with each collection tube containing a minimum of 8 mL.

(i) If the amount of blood that can be removed from the Covered Horse at the first attempt is insufficient, the BCO shall repeat as necessary and appropriate (taking horse welfare into account) to try to obtain the minimum total volume for a blood Sample. If the BCO is unable to collect a sufficient amount of blood, the BCO or DCO may terminate the blood Sample Collection Session and record the reasons for such termination. Other matrices should be considered for collection.

(j) Once a complete blood Sample is obtained, the Sample Collection Personnel will properly seal the A and B tubes.

(k) The Sample Collection Personnel will complete all the required Sample collection documentation, and the Responsible Person will subsequently be provided a copy for his or her records.

(l) Total carbon dioxide (TCO2):

(1) In addition to the collection of a Post-Race Sample, blood Sample(s) may also be collected from a Covered Horse prior to a Covered Horserace or Vets' List Workout for the purpose of testing for TCO2. The Prohibited List specifies the TCO2 levels that will be considered prima facie evidence of alkalinization or administration of an alkalinizing agent, *i.e.,* a Controlled Medication Method.

(2) A blood Sample collected for TCO2 analysis may have a total volume below 24 mL, at the Agency's discretion. Any volume of blood collected for TCO2 analysis will be transported to the Laboratory.

(3) The Responsible Person or Owner of a Covered Horse selected for TCO2 testing may request that a duplicate Sample be taken. Such request must be made prior to the collection of the official Sample. The costs related to obtaining, handling, shipping, and analyzing the duplicate Sample shall be the responsibility of the Responsible Person or Owner who requested such Sample.

(4) The duplicate sample shall not constitute a B Sample. Accordingly:

(i) the provisions in the Protocol addressing the splitting of Samples for analysis purposes shall not apply to blood samples collected for TCO2 testing.

(ii) the provisions of Rule 5430 apply to blood Samples collected for TCO2 testing, except that any references to A and B Samples or tubes shall not apply, as there shall be only one official Sample.

(5) The official Sample and any duplicate Sample shall be analyzed by the same Laboratory. If the Agency, in its discretion, determines that the duplicate Sample cannot be analyzed within 5 days after the Sample is collected, the findings of the official Sample shall be final.

(6) Blood Samples collected for TCO2 testing may be subject to Further Analysis if a Post-Race Sample collected from the same Covered Horse returns an Atypical Finding or an Adverse Analytical Finding.

5440. Collection of Hair Samples

Sample Collection Personnel should collect hair Samples in accordance with the following requirements:

(a) hair should (to the extent possible) be completely dry and free of visible dirt, debris, or foreign substances;

(b) mane hair should be collected unless tail hair is specifically requested. If, for a particular reason, a mane Sample cannot be obtained (*e.g.,* due to a hogged mane), tail hair may be collected;

(c) an adequate Sample of hair should be obtained for each of the A and B Samples;

(d) if the mane is less than 10 cm, an additional Sample of hair may be required to ensure a suitable volume is obtained for analysis;

(e) the Sample should be secured tightly with an elastic band, or equivalent, and oriented to clearly mark the ends cut or pulled from the Covered Horse; and

(f) hair shafts should remain aligned so that the hair does not become knotted.

5450. Sample Collection Personnel Requirements

(a) Minimum requirements. The Agency shall establish the necessary eligibility and qualification requirements for the positions of DCO, BCO, and Chaperone. At a minimum:

(1) Sample Collection Personnel shall be 18 years or older;

(2) Sample Collection Personnel shall agree to undergo screening required by the Agency (*e.g.,* background checks, conflicts of interest); and

(3) The BCO shall be a Veterinarian or veterinary technician with the practical skills and knowledge to perform blood collection from a vein on a horse.

(b) Conflicts.

(1) The Agency may require all Sample Collection Personnel to sign an agreement regarding conflicts of interest, confidentiality, and an appropriate code of conduct.

(2) The Agency shall not assign any Sample Collection Personnel to a Sample Collection Session where they have an interest in the performance or outcome of the Sample collection process. At a minimum, Sample Collection Personnel are deemed to have such an interest if they:

(i) are related to, employed or otherwise engaged by, or otherwise affiliated with any Equine Constituencies, excluding State Racing Commissions and Racetracks, if the Sample Collection Personnel have met the other requirements set forth by the Agency;

(ii) have a financial interest in or are involved in any way with the care or training or ownership of the Covered Horse at issue;

(iii) are engaged in business with, have a financial interest in, or have a personal stake in a Covered Horserace; or

(iv) appear to have private or personal interests that detract from their ability to perform their duties with integrity and in an independent and purposeful manner.

(c) Training.

(1) The Agency shall establish or approve written training materials for Sample Collection Personnel that outline their respective responsibilities and that provide adequate training for their roles.

(2) The Agency shall ensure that DCOs and BCOs have completed the necessary training program and are familiar with the requirements before issuing them a credential or other authorization documentation.

(3) The training program for DCOs and BCOs should include, at a minimum:

(i) comprehensive theoretical training in the activities relevant to the DCO or BCO position (as applicable);

(ii) observation of the activities that are the responsibility of the DCO or BCO as set out in these Testing and Investigations Standards, preferably on-site; and

(iii) the satisfactory performance of one complete Sample Collection Session on-site under observation by a qualified DCO, BCO, or similar personnel.

(4) The training program for Sample Collection Personnel responsible for the collection of blood Samples shall also include standard precautions in veterinary settings.

(5) The Agency should ensure that Sample Collection Personnel are adequately trained to carry out their responsibilities in a manner respectful of any Covered Persons who are of a different race, religion, sex, national origin, sexual orientation, age, citizenship, disability, gender identity, or Veteran status.

(d) Credentialing.

(1) The Agency shall establish a system for credentialing and re-credentialing DCOs and BCOs. DCOs and BCOs shall have either a credential including their name, photograph, and date of expiration, or a letter of authority from the Agency and a Federal- or State-issued identification. The Agency may determine what information or authorization documentation to require for other Sample Collection Personnel.

(2) Only Sample Collection Personnel who have been authorized by the Agency are permitted to conduct Doping Control and Medication Control activities on behalf of the Agency.

(3) DCO and BCO credentials shall be valid for a maximum of 2 years. DCOs and BCOs should be subject to an assessment (theoretical or practical) before being re-credentialed.

(4) The Agency will take steps to develop a system to monitor the performance of DCOs and BCOs.

(5) The Agency will maintain records of conflicts of interest and training of all Sample Collection Personnel.

5500. Storage and Transportation

5510. Storage and Custody of Samples Prior to Analysis

(a) After Sample collection, the DCO or BCO shall store Samples in a manner that protects the integrity, identity, and security, prior to transport to the Laboratory.

(b) If a urine or blood Sample is not transported to the Laboratory on the day of collection:

(1) the relevant Sample Collection Personnel shall store the urine Sample in a secure freezer or refigerator; and

(2) the relevant Sample Collection Personnel shall store the blood Sample in a secure refrigerator;

(3) and, in each case, shall document in the Chain of Custody the location and time in and time out of the urine or blood Sample.

(c) The DCO or BCO shall document who has custody of the Samples or who is permitted access to the Samples.

(d) The Agency shall develop a system for recording the Chain of Custody of Samples and receiving Sample Collection Session documentation to ensure that each Sample is securely handled and the documentation for each Sample is completed.

5520. Transport of Samples and Documentation

(a) Samples should be transported to the Laboratory as soon as reasonably practicable after the conclusion of the Sample Collection Session. Samples collected on a weekend or over consecutive days may be stored and shipped together in batches (*e.g.,* Samples collected on a race weekend may be stored and sent to the Laboratory on the next Monday), provided that the Samples are stored in accordance with the requirements of these Testing and Investigations Standards.

(b) Samples shall be transported securely via a transportation or shipping service authorized by the Agency. The Agency shall authorize a transport system that ensures Samples and related documentation are transported in a manner that protects their integrity, identity, and security, and which minimizes the potential for Sample degradation due to factors such as delays and extreme temperature variations. Blood samples must be transported in a manner that maintains a cool and constant environment.

(c) State Racing Commissions may select a Laboratory at which the A Samples (or official TCO2 Samples) collected in its state shall be analyzed. If specific analysis requested by the Agency cannot be performed at the selected Laboratory, the Agency may have the Sample sent to another Laboratory that can conduct the requested analysis. Each year the State Racing Commissions must make their Laboratory designation for all Samples collected within its state on or before September 30th of the year prior to the designation taking effect. If a State Racing Commission fails to select a Laboratory by this deadline, the Agency shall select the Laboratory for that particular state. The Agency may allow for a State Racing Commission to change its selection of Laboratory outside of the time-period set forth above if a reasonable request is made (as determined by the Agency).

(d) A and B Samples (and official and duplicate TCO2 Samples) will be shipped together to the Laboratory conducting the A Sample analysis. If the

B sample analysis is requested, the B Sample will be shipped to the B Sample Laboratory selected by the Agency.

(e) The Agency will have the ability to confirm, if necessary, that Samples and related documentation arrived at the Laboratory. The Laboratory shall report any irregularities to the Agency with respect to the condition of Samples upon arrival in accordance with the Laboratory Standards.

(f) The Agency shall develop a system to ensure that, where required, instructions for the type of analysis to be conducted are provided to the Laboratory that will be conducting the analysis. In addition, the Agency shall provide the Laboratory with information as required for result reporting and statistical purposes, including whether long-term storage is required.

(g) Documentation identifying the Covered Horse and Responsible Person or Nominated Person shall not be included with the Samples or documentation sent to the Laboratory that will be analyzing the Samples.

(h) If the Samples or related documentation are not received by the Laboratory, or if a Sample's integrity or identity was compromised during transport, the Agency will consider whether the Samples should be voided. The decision to void a Sample is in the sole discretion of the Agency.

5530. Ownership and Retention of Samples and Retention of Documentation

(a) Samples collected from a Covered Horse are owned by the Authority. Samples shall be retained by Laboratories in accordance with the requirements of Rule 6319.

(b) Documentation related to a Sample Collection Session or an Anti-Doping Rule Violation or Controlled Medication Rule Violation shall be stored by the Agency in accordance with the Agency's record retention policy.

5600. Standards for Intelligence Gathering

5610. Purpose

The Agency shall ensure that it is able to: obtain, assess, and process anti-doping and medication control intelligence from all available sources to help deter and detect doping and misuse of medication and inform effective, intelligent, and proportionate test planning; plan Target Testing; and conduct investigations as required by the Protocol. The objective of this Rule is to establish standards for the efficient and effective gathering, assessment, and processing of such intelligence for these purposes.

5620. Gathering Intelligence

(a) The Agency should make every reasonable effort to ensure that it is able to obtain or receive anti-doping and medication control intelligence from all available sources, including, but not limited to: Covered Persons, including through Substantial Assistance; members of the public (*e.g.,* by means of a confidential whistleblower platform); Sample Collection Personnel (whether via mission reports, incident reports, or otherwise); Laboratories; pharmaceutical companies; the Authority; law enforcement (authorized by any government, including Federal, State, or international); State Racing Commissions; Racetracks; Race Organizers; anti-doping organizations; equine regulatory bodies; other relevant regulatory or disciplinary authorities; and the media (in all its forms).

(b) The Agency shall ensure that anti-doping and medication control intelligence obtained or received from a confidential source or in a non-public fashion is handled securely and confidentially, that sources of intelligence are protected, that the risk of leaks or inadvertent disclosure is properly addressed, and that intelligence shared with the Agency in a matter intended to be confidential is processed, used, and disclosed only for any legitimate legal, law enforcement, regulatory, anti-doping, medication control, integrity, disciplinary, horse welfare, or safety purposes.

(c) The Agency shall facilitate, encourage, and seek to protect whistleblowers.

(d) The Agency may consult or coordinate with the Authority, law enforcement (authorized by any government, including Federal, State, or international), State Racing Commissions, Racetracks, Race Organizers, Training Facilities, Laboratories, anti-doping organizations, equine regulatory bodies, or other relevant regulatory or disciplinary authorities in obtaining, developing, or sharing information and intelligence that may be useful for the implementation or enforcement of the Protocol or the Act or for any legitimate legal, law enforcement, regulatory, anti-doping, medication control, integrity, disciplinary, horse welfare, or safety purposes (*e.g.,* the Agency may share information with other entities investigating the possible commission of a crime, regulatory offense, or breach of other rules of conduct; in particular, for example, the Agency may share the results of Sample analyses with the Authority for purposes of enforcing the Racetrack Safety Program).

5630. Assessment and Analysis of Intelligence

(a) The Agency should ensure that it is able to assess all anti-doping and medication control intelligence upon receipt for relevance, reliability, and accuracy, taking into account the nature of the source and the circumstances in which the intelligence has been captured or received.

(b) All relevant anti-doping and medication control intelligence obtained or received by the Agency should be collated and analyzed to establish patterns, trends, and relationships that may assist the Agency in developing an effective anti-doping and medication control strategy and in determining (where the intelligence relates to a particular case) whether there is reasonable suspicion that an Anti-Doping Rule Violation or Controlled Medication Rule Violation may have been committed, such that further investigation is warranted.

5640. Intelligence Outcomes

Anti-doping and medication control intelligence may be used for the following purposes (without limitation):

(a) developing, reviewing, and revising test distribution planning;

(b) determining when to conduct Target Testing; or

(c) creating targeted intelligence files to be referred for investigation.

5700. Standards for Investigations

5710. Purpose

(a) The objective of this Rule is to establish standards for the efficient and effective conduct of investigations under the Protocol, including, but not limited to:

(1) the investigation of Sample abnormalities reported by Laboratories;

(2) the investigation of any other analytical or non-analytical information or intelligence where there is reasonable suspicion to suspect that an Anti-Doping Rule Violation or Controlled Medication Rule Violation may have been committed;

(3) the investigation of the circumstances surrounding or arising from an Adverse Analytical Finding to gain further intelligence concerning the Responsible Person or other Covered Persons associated with the Covered Horse whose Sample is the subject of the Adverse Analytical Finding, including to determine if any other methods are involved in doping or medication abuse; and

(4) where a Covered Person is alleged to have committed an Anti-Doping Rule Violation or Controlled Medication Rule Violation, the investigation into whether

any other Covered Persons were complicit or otherwise involved in that violation.

(b) In each case, the purpose of the investigation is to achieve one of the following:

(1) to rule out a possible violation or involvement in an Anti-Doping Rule Violation or Controlled Medication Rule Violation;

(2) to develop evidence that supports an Anti-Doping Rule Violation or Controlled Medication Rule Violation proceeding or the initiation of such a proceeding in accordance with the Protocol; or

(3) to provide evidence of a violation of any other provisions of the Protocol or related Rule Series, or applicable law or regulation.

5720. Investigating Possible Violations

(a) The Agency shall conduct, direct, and manage all investigations under the Protocol, unless it specifically delegates an investigation (or aspects of an investigation) to a State Racing Commission (subject to the applicable State Racing Commission electing to enter into an agreement with the Agency).

(b) The Agency and any State Racing Commission to which the Agency delegates investigatory tasks shall ensure that investigations are conducted confidentially.

(c) The Agency will seek to investigate any analytical or non-analytical information or intelligence that indicates that there is reasonable suspicion that an Anti-Doping Rule Violation or Controlled Medication Rule Violation may have been committed or that further inquiry might lead to the discovery of admissible evidence of such violation.

(d) The Agency should gather and record all relevant information and documentation as soon as possible.

(e) The Agency shall ensure that investigations are conducted fairly, objectively, and impartially at all times. The conduct of investigations, the evaluation of information and evidence identified in the course of that investigation, and the outcome of the investigation, should be fully documented.

(f) Covered Persons are required under the Protocol to cooperate with investigations conducted by the Agency (or a State Racing Commission, if the investigation is delegated by the Agency). If they fail to do so, the Agency may bring proceedings against them for failure to cooperate (in accordance with Rule 3510(b)). If their conduct amounts to subversion of the investigative process (*e.g.,* by providing false, misleading, or incomplete information, or by destroying potential evidence), the Agency may also bring proceedings against them for the Anti-Doping Rule Violation of Tampering or Attempted Tampering.

(g) It shall not be a defense in a proceeding involving an Anti-Doping Rule Violation or Controlled Medication Rule Violation that an investigation should have been conducted more quickly or that any aspect of the Testing and Investigations Standards was not followed by the Agency or State Racing Commission, except as provided in Rule 3122.

5730. Obtaining Investigative Information

(a) General. The Agency should make use of all investigative resources reasonably available to it to conduct its investigation. These resources may include: obtaining information and assistance from other entities pursuant to Rule 5620(d); investigative powers conferred under applicable rules (including inspection, examination, and seizure, production of documents, subpoenas, and interviews); and the power to suspend a period of Ineligibility imposed on a Covered Person in return for Substantial Assistance in accordance with the Protocol. Without limitation, the Agency may utilize the investigative tools set forth in paragraphs (b) through (f) of this Rule in relation to investigations and inquiries of possible violations of the Protocol.

(b) Inspection, examination, and seizure.

(1) The Agency shall have access to the books, records, offices, racetrack facilities, and other places of business of Covered Persons that are used in the care, treatment, training, or racing of Covered Horses.

(2) The Agency may seize any medication, drug, substance, or paraphernalia in violation or suspected violation of any provision of the Act or any rules approved by the Commission pursuant to the Act, and any object or device reasonably believed to have been used in furtherance of the violation or suspected violation.

(c) Return of seized property. Upon final resolution of a violation, the Agency shall return seized property, including, but not limited to, phones, computers and other repositories of electronic data, the possession of which is not specifically prohibited by the Act or the rules of the Authority.

(d) Production of documents and information.

(1) The Agency may require a Covered Person to provide any information, documents, or records in such form as the Agency may require, which are held by the Covered Person or are within his or her power to obtain, and that are used in the care, treatment, training, or racing of Covered Horses.

(2) The Agency may require production of any mobile phones, computers, tablets, other electronic devices, books, documents and records (including telephone or financial records whether currently in the direct possession of a Covered Person or a third person who may be directed by the Covered Person to provide the information) that may be relevant to any investigation, inquiry, hearing, or proceeding, and that are used in the care, treatment, training, or racing of Covered Horses.

(e) Subpoenas. The Agency may request that the Authority issue a subpoena to a Person to appear or to answer questions or produce evidence related to anti-doping and medication control matters. A subpoena may direct the witness to: appear at a specific time and place to testify; produce designated evidence by a specific time; or permit the Agency to inspect premises at a specific time. A subpoena must be issued under the signature of a designated person from the Authority. If the Covered Person fails to comply with a subpoena, the Agency or Authority may seek enforcement of the subpoena in any of the district courts of the United States within the jurisdiction of which such inquiry is being conducted. Additionally, the arbitrator(s), IAP member(s), administrative law judge, or Commission considering a case arising under the Protocol may draw an adverse inference against a Covered Person who fails to comply with a valid subpoena, regardless of whether a court has been required to enforce the subpoena or has found the Covered Person in contempt.

(1) This issuance of a subpoena and compliance therewith is independent of the Agency's powers to inspect and obtain evidence without a subpoena and a Covered Persons' duty to cooperate under the Protocol. In addition to a rule violation for refusal to cooperate, a refusal to cooperate can result in imposition of an adverse inference against a Covered Person by the arbitrator(s), IAP member(s), administrative law judge, or Commission.

(2) The following considerations should be taken into account by the Agency in determining whether a subpoena should be requested to be issued by the Authority:

(i) the availability of, and success in, using alternative methods for obtaining the information in a timely manner;

(ii) the indispensability of the information to the success of the investigation or establishing a violation; and

(iii) the need to protect against the destruction of records or information that may be necessary to investigate and prosecute violations of the Protocol.

(f) Interviews.

(1) Covered Persons shall comply with a request to be interviewed by the Agency.

(2) If the Agency requires a Covered Person to submit to an interview under oath, the Covered Person may request a delay of the interview to seek legal advice. However, such delay shall only encompass the time reasonably necessary to contact and retain legal counsel and shall in no case exceed 7 days, unless agreed otherwise by the Agency.

(3) An authorized Person may administer an oath or affirmation to a Covered Person appearing for an interview under oath.

(4) The only basis for refusing to answer a question in an interview is an assertion of the attorney-client privilege or the Fifth Amendment privilege against self-incrimination.

5740. Investigation Outcomes

(a) The Agency shall determine without undue delay whether proceedings should be initiated against a Covered Person for an Anti-Doping Rule Violation or Controlled Medication Rule Violation.

(b) If the Agency concludes based on the results of its investigation that proceedings should be initiated against a Covered Person independently or in relation to a Covered Horse, asserting commission of an Anti-Doping Rule Violation or Controlled Medication Rule Violation, it shall give notice of that decision in the manner set out in the Protocol.

(c) If the Agency concludes, based on the results of its investigation, that proceedings asserting commission of an Anti-Doping Rule Violation or Controlled Medication Rule Violation should not be initiated against a Covered Person independently or in relation to a Covered Horse, the Agency shall consider whether any of the intelligence obtained or lessons learned during the investigation should be used for test distribution planning, Target Testing, or whether it should be shared with any other Person or included in any report in accordance with these Testing and Investigations Standards.

(d) The Agency may include information from its investigations in reports made to the Authority, Congress, State Racing Commissions, or other appropriate bodies, regardless of whether the information relates to one or more rule violations. The fact that information was included in such a report shall not be a defense in any proceeding involving a potential rule violation.

6000. Equine Standards for Laboratories and Accreditation

Rule 6010. Equine Standards for Laboratories and Accreditation

(a) The main purpose of these Laboratory Standards is to ensure that Laboratories report valid test results based on reliable evidentiary data and to facilitate harmonization in Analytical Testing of Samples by Laboratories.

(b) The Laboratory Standards set out the requirements to be followed by Laboratories that wish to demonstrate that they are technically competent, operate within an effective Management System, and can produce forensically valid results. The Laboratory Standards include, inter alia, requirements for obtaining and maintaining HISA Equine Analytical Laboratory (HEAL) accreditation, operating standards for the performance of Laboratories, and a description of the accreditation and approval processes. The Laboratory Standards also set out requirements and guidance in relation to Sample custody and storage, Analytical Testing, and some aspects of Results Management.

(c) Compliance with the Laboratory Standards in effect at the time of Sample analysis (as opposed to another alternative standard, practice, or procedure) shall be sufficient to conclude that the procedures covered by the Laboratory Standards were performed properly. A failure by a Laboratory to follow a requirement in effect at the time of Analytical Testing, which has subsequently been eliminated from these Laboratory Standards or applicable Technical Document(s) or Technical Letter(s) at the time of a hearing, shall not serve as a defense to an Anti-Doping Rule Violation.

(d) Otherwise undefined capitalized terms used in these Laboratory Standards have the meanings given to them in Rule 1020.

Rule 6020. Technical Documents

(a) Technical Documents may be drafted by the Laboratory Expert Group or Agency and circulated for stakeholder consultation before being finalized. Technical Documents will be approved by the Agency, and Authority (where appropriate), and published on the Agency website. Once approved, a relevant Technical Document becomes an integral part of the Laboratory Standards and supersedes any previous publication on a similar topic, including Technical Letter(s) or the Laboratory Standards.

(b) Implementation of the requirements detailed in a Technical Document may occur prior to the effective date for implementation specified in the Technical Document in accordance with this Rule 6020 and shall occur no later than the effective date.

(c) A failure by a Laboratory to implement a Technical Document or Technical Letter by the effective date may result in the imposition of an Analytical Testing Restriction against the Laboratory for that Analytical Testing Procedure, or remediation requirements. In exceptional circumstances, a suspension of the Laboratory's HEAL accreditation may be warranted, as determined by the Agency.

(d) If a Laboratory is not able to implement a new Technical Document by its effective date, it shall inform the Agency as soon as possible. The Laboratory shall send a written request to the Agency for an extension beyond the applicable effective date, providing the reason(s) for the delayed implementation of the Technical Document, any measures taken to ensure that Samples received in the Laboratory will be subject to Analytical Testing in compliance with the new Technical Document (for example, by subcontracting the analysis to another Laboratory as applicable), as well as plans for the implementation of the new Technical Document.

(e) The implementation of the Technical Documents' requirements into the Laboratory's Management System is mandatory for obtaining and maintaining HEAL accreditation or approval, respectively, and for the application of the relevant Analytical Testing Procedure(s) to the analysis of Samples.

(f) In cases when a newly approved version of a Technical Document lowers a Threshold for a Threshold Substance, a Minimum Reporting Level for a Non-Threshold Substance, or any other limit, as applicable, the revised limits specified in the new Technical Document shall not be applied to the reporting of analytical results for Samples collected before the effective date of the Technical Document.

(g) Where the above revised limit specification does not apply, Laboratories may implement a Technical Document as soon as it is approved by the Agency, and Authority (where appropriate), provided that the

requirements of the Technical Document have been implemented and documented appropriately by the Laboratory.

(h) The most recently approved Technical Document shall be applied to the Analytical Testing of Samples prior to the effective date if it would lead to a result that benefits the Covered Person and Covered Horse (*e.g.,* increase of the Threshold for a Threshold Substance or of the Minimum Reporting Level for a Non-Threshold Substance, or any other limit, establishment of more stringent identification criteria for chromatographic-mass spectrometric or other Confirmation Procedures). Therefore, in the case where an analytical finding does not meet the reporting criteria defined in the new Technical Document, it shall be reported as a Negative Finding.

Rule 6030. Technical Letters

(a) Technical Letters may be issued in letter format on an ad-hoc basis to provide direction to the Laboratories on particular issues on the analysis, interpretation and reporting of results for specific Prohibited Substance(s) or Prohibited Method(s) or on the application of specific Laboratory procedures. Technical Letters are modified or withdrawn by the Agency, as appropriate.

(b) Technical Letters will be drafted and approved by the Agency, and Authority (where appropriate), in consultation with relevant scientific experts, and published on the Agency's website. Technical Letters become effective immediately, unless otherwise specified by the Agency. Technical Letters may require actions (*e.g.,* validation of new Analytes or modifications to Analytical Testing Procedures, the procurement of Reference Material(s) or Reference Collection(s)), which may justify that its application cannot be immediate. In such cases, the Agency shall make a time provision for implementation and specify an effective date for the Technical Letter.

(c) Once approved, a relevant Technical Letter becomes an integral part of the Laboratory Standards and supersedes any previous publication on a similar topic, including Technical Document(s) or the Laboratory Standards.

(d) The implementation of the requirements of relevant Technical Letters into the Laboratory's Management System is mandatory for obtaining and maintaining HEAL accreditation or approval, respectively, and for the application of the relevant Analytical Testing Procedure(s) to the analysis of Samples.

Rule 6040. Laboratory Guidelines

(a) Laboratory Guidelines may be issued to provide direction to the Laboratories on new Analytical Methods or procedures approved by the Agency. Laboratory Guidelines will be modified or deleted by the Agency, as appropriate.

(b) Laboratory Guidelines will be approved by the Laboratory Expert Group (LabEG). Laboratory Guidelines are provided to Laboratories only and are not published on the Agency website.

(c) Implementation of Laboratory Guidelines is not mandatory. However, Laboratories are encouraged to follow, to the fullest extent possible, the recommendations of best practice included in relevant Laboratory Guidelines.

Rule 6050. Technical Notes

(a) Technical Notes may be issued to Laboratories to provide detailed technical guidance on the performance of specific Analytical Methods or procedures.

(b) Technical Notes will be approved by the LabEG. Technical Notes are provided to Laboratories only and are not published on the Agency website.

(c) Implementation of the recommendations detailed in Technical Notes is not mandatory. However, Laboratories are encouraged to follow, to the fullest extent possible, the technical guidance included in Technical Notes.

Rule 6060. Sample Analysis

(a) Sample analysis is part of the Analytical Testing process and involves the detection, identification, and, in some cases, demonstration of the presence above a Threshold of Prohibited Substance(s) or their Metabolite(s), or Marker(s) of Use of Prohibited Substances or Prohibited Methods in an equine Sample.

(b) Laboratories may accept samples for other forms of analysis, subject to the provisions of the Code of Ethics, which are not under the scope of HEAL accreditation. Any such analysis shall not be covered by the Laboratory's HEAL accreditation and, therefore, shall not be subject to the requirements of the Laboratory Standards, Technical Documents, or Technical Letters. Test reports or other documentation or correspondence from Laboratories shall not declare or represent that any such analysis is covered under their HEAL accreditation status.

Rule 6070. Racing Medication and Testing Consortium Accredited Laboratories

(a) These Laboratory Standards will replace current Racing Medication and Testing Consortium (RMTC) accreditation, although a transition phase which may include RMTC conducting the accreditation program may be agreed between the Agency and RMTC.

(b) Where a laboratory has current RMTC accreditation, any information required as part of the HEAL application process that has already been provided as part of its RMTC accreditation, and that the laboratory checks to confirm it is still current and valid may, with the agreement of the parties, be provided to the Agency.

6100. Laboratory Accreditation and Operating Standards

Rule 6110. Process and Requirements for HEAL Laboratory Accreditation

(a) Applicant laboratory for HEAL accreditation. Only a laboratory that satisfies the criteria in this Rule 6110 may apply to become a candidate laboratory for HEAL accreditation.

(1) The applicant laboratory shall submit a completed application form, provided by the Agency, duly signed by the laboratory Director (or equivalent position) and, if relevant, by the Director (or equivalent position) of the host organization (*e.g.,* university or public institution).

(2) Provision of business plan. The Agency shall request the applicant laboratory to submit a business plan summary, which shall include market considerations (clients, number of Samples, maintenance costs, etc.), facility, instrumental, staffing and training needs, and shall make a reasonable guarantee of the long-term provision of adequate financial and human resources to the laboratory.

(b) Candidate laboratory for HEAL accreditation. The application shall be evaluated by the Agency to determine whether the applicant laboratory will be granted candidate laboratory status by the Agency and thereby continue within the HEAL accreditation process. Additional supporting documentation may be requested by, and at the discretion of, the Agency.

(1) Description of the candidate laboratory. Once approved by the Agency, the candidate laboratory shall complete a detailed questionnaire and submit it to the Agency. The questionnaire will include, but is not limited to, the following:

(i) Staff list and their qualifications, including description of any relevant

anti-doping experience and a list of relevant scientific publications by laboratory staff;

(ii) Relevant memberships and engagement with professional societies, such as the Association of Official Racing Chemists (AORC), World Association of Anti-Doping Scientists (WAADS), Society of Forensic Toxicologists (SOFT), and The International Association of Forensic Toxicologists (TIAFT);

(iii) Description of the physical laboratory facilities, including a description of the security considerations for Samples and records. The laboratory facilities shall include ample analytical and administrative space to allow separate, restricted and dedicated areas for analytical and administrative operations;

(A) Physical security. Specific measures to maintain secure and restricted access to the laboratory facility and a controlled internal laboratory environment (*e.g.,* dedicated and restricted Sample storage areas, CCTV monitoring);

(B) IT security. Implementation of firewalls and other cyber security measures consistent with best practice and any applicable governmental regulations;

(C) Information Technology (IT) infrastructure. Implementation of a data and information management system (*e.g.,* LIMS) and a central server/intranet which allows secure data handling.

(iv) List of actual and proposed instrumental resources and equipment, including year of purchase and conditions for technical support (*e.g.,* contract/access to instrument manufacturer maintenance services);

(v) List of validated Initial Testing Procedures and Confirmation Procedures, including target Analytes and Limits of Detection (LODs), Limits of Identification (LOIs) and, where applicable, Limits of Quantification (LOQs) and estimates of Measurement Uncertainty (MU);

(vi) Status of method development and validation, including, at minimum, all mandatory Analytical Methods and method validation reports (if completed and currently in use);

(vii) List of available Reference Materials and Reference Collections, or plans to acquire Reference Materials or obtain Reference Collections;

(viii) Plans to ensure compliance with laboratory independence and impartiality requirements before receiving HEAL accreditation (and if this requirement is covered by other accreditation, such as ISO/IEC 17025, the laboratory may refer to it);

(ix) Status and scope of ISO/IEC 17025 accreditation; and

(x) A description of how the principles of the Code of Ethics is integrated into the laboratory Management System. A letter of compliance with the Code of Ethics signed by the laboratory Director shall be provided.

(xi) The Agency may require an update of this documentation during the process of accreditation.

(2) Payment of initial accreditation fee. Prior to entering the probationary period, the candidate laboratory shall pay the Agency a one-time non-refundable fee to cover the costs related to the initial accreditation process. This fee shall be determined by the Agency and disclosed to the laboratory prior to the accreditation process commencing. The accreditation process will not commence until the fee is agreed upon.

(3) Compliance with the Code of Ethics. The candidate laboratory shall implement and comply with the provision(s) of the Code of Ethics. Candidate laboratories shall not accept Samples directly from individual Covered Persons or from individuals or organizations acting on his or her behalf (unless approved in writing and in advance by the Agency and on the condition that Samples will be treated as a Sample under the Protocol, and proceedings may be brought against the relevant Covered Person(s) if evidence of an Anti-Doping Rule Violation or a Controlled Medication Rule Violation emerges).

(4) Pre-probationary testing and on-site assessment. If this is covered by another accreditation, such as ISO/IEC 17025, the laboratory may refer to this paragraph (4).

(i) Prior to entering the probationary accredited period, the Agency shall conduct a pre-probationary testing (PPT) and on-site assessment of the candidate laboratory at the candidate laboratory's expense. The purpose of this assessment is to obtain information about different aspects of the laboratory's competence and to clarify any issues regarding the accreditation process, which are relevant for the HEAL accreditation.

(ii) As part of the PPT, the candidate laboratory shall be required to analyze at least 10 blind EQAS samples arranged by the Agency. The general composition and content of the blind EQAS samples and the evaluation of laboratory EQAS results are described in the Rule 6200 and 6400 Series, respectively.

(iii) The candidate laboratory shall report the results for the PPT blind EQAS samples to, and in a form designated by, the Agency (in compliance with paragraph (e) of Rule 6260) within 6 weeks, unless otherwise requested by the candidate laboratory and agreed to by the Agency.

(A) Upon request, the candidate laboratory shall provide the Agency with a Laboratory Documentation Package for selected EQAS samples for which there is an Adverse Analytical Finding. Additional data may be required upon the Agency's request. This documentation shall be submitted within 10 days of the request or as otherwise indicated by the Agency.

(B) For selected EQAS samples with Negative Findings, the Agency may request all, or a portion of, the Initial Testing Procedure data.

(iv) After receiving the PPT EQAS results, the Agency shall inform the candidate laboratory of the evaluation of its performance and provide guidance for improvement. Corrective actions, if any, shall be conducted and reported by the candidate laboratory to the Agency within 30 days, or as otherwise indicated by the Agency.

(v) In addition, the Agency shall provide an assessment report regarding the outcomes of the on-site assessment, including any identified nonconformities, to allow the candidate laboratory to implement the necessary improvements. Corrective actions, if requested, shall be conducted, and reported by the candidate laboratory to the Agency within 30 days, or as otherwise indicated by the Agency.

(vi) The nonconformities identified in the Agency assessment report shall be satisfactorily addressed and the recommendations for improvement shall be implemented before the candidate laboratory can be accepted as an Agency probationary laboratory. The candidate laboratory's performance in the PPT and on-site assessment will be considered in the overall review of the candidate laboratory's application and may affect the timeliness of the candidate laboratory's entry into the probationary phase of accreditation.

(5) ISO/IEC 17025 accreditation.

(i) ISO/IEC 17025 accreditation is a critical and mandatory precondition for HEAL accreditation.

(ii) The Agency will consider a candidate laboratory application for HEAL accreditation only if the laboratory has obtained (or is in the process of obtaining) ISO/IEC 17025 accreditation. ISO/IEC 17025 accreditation must be conferred prior to an applicant receiving full HEAL accreditation.

(iii) The accreditation body, which may be specified by the Agency, shall be an International Laboratory Accreditation Cooperation (ILAC) full member that is a signatory to the ILAC

Mutual Recognition Arrangement (ILAC MRA) for testing activities as defined in ISO/IEC 17025.

(iv) The candidate laboratory shall (in a timely manner) send to the Agency a summary of the assessment report and any corrective or preventive action documentation addressing nonconformities.

(6) Analytical Testing Procedures. Before the Agency grants accreditation, candidate laboratories shall provide documentation to the Agency demonstrating that all mandatory Test Methods have been validated and included in the Laboratory's scope of ISO/IEC 17025 accreditation.

(7) Laboratory independence and impartiality. Before the Agency grants accreditation, probationary laboratories shall provide documentation to the Agency demonstrating compliance with the requirements of Laboratory independence and impartiality established in paragraph (c) of Rule 6130.

(8) Professional liability insurance coverage. Before the Agency grants accreditation, probationary laboratories shall provide documentation to the Agency demonstrating that they have adequate provisions for self-insuring, or professional liability risk insurance coverage has been obtained to cover liability of no less than $5,000,000 annually.

Rule 6120. The Agency Accredited Laboratory; Obtaining HEAL Accreditation

(a) The Agency probationary HEAL accreditation.

(1) Upon satisfactory completion of the candidate laboratory requirements (as per Rule 6110), as determined by the LabEG, a candidate laboratory can be considered for entry to the probationary phase of HEAL accreditation as an Agency probationary laboratory. Once the Agency has determined that the laboratory has successfully completed the requirements of a candidate laboratory, the Agency can grant the laboratory probationary accreditation status.

(2) A probationary laboratory must comply with the requirements of accredited laboratories, including the requirements for maintaining accreditation.

(3) The probationary period is 2 years or following the analysis of 2,500 Samples, whichever comes later. In circumstances where the laboratory was previously accredited by the RMTC, the Agency may exercise its discretion to reduce or eliminate the probationary period.

(b) The Agency pre-final accreditation.

(1) Once the Agency has determined that the laboratory has successfully completed the requirements of the probationary period, the laboratory can be granted final accreditation status. At the Agency's discretion, as part of the final accreditation process, a Final Accreditation Test (FAT) or on-site assessment may be conducted by the Agency. Costs associated with the Agency on-site assessment and FAT shall be disclosed and agreed to with the probationary laboratory.

(2) As part of the FAT, the probationary laboratory shall analyze a minimum of 15 blind EQAS samples selected from the routine EQAS program. The general composition and content of the blind EQAS samples and the evaluation of laboratory EQAS results are described in Rules 6200 and 6400, respectively.

(3) Compliance with the scope of ISO/IEC 17025 accreditation, the Laboratory Standards, and other procedures required by the Agency (*e.g.,* Technical Documents, Technical Letters) will be assessed. The FAT shall assess both the scientific competence and the capability of the probationary laboratory to manage multiple Samples.

(4) The probationary laboratory shall successfully report the results for the blind EQAS samples in the FAT to the Agency in accordance with paragraph (e) of Rule 6260 within 6 weeks of receipt the samples, unless otherwise specified by the Agency or otherwise requested by the laboratory and agreed to by the Agency.

(5) Upon request, the probationary laboratory shall provide the Agency with a Laboratory Documentation Package for selected EQAS samples for which there is an Adverse Analytical Finding. Additional data may be required upon the Agency's request. This documentation shall be submitted within 10 days of the Agency request, or as otherwise indicated by the Agency.

(6) For EQAS samples with Negative Findings, the Agency may request all or a portion of the Initial Testing Procedure data.

(7) After receiving the FAT EQAS results, the Agency shall inform the probationary laboratory of the evaluation of its performance. Corrective actions, if any, shall be conducted and reported by the probationary laboratory to the Agency within 30 days, or as otherwise indicated by the Agency.

(8) The Agency shall provide an assessment report with the outcomes of the accreditation assessment, including any identified nonconformities, for the probationary laboratory to implement the necessary improvements. Corrective actions, if any, shall be conducted and reported by the probationary laboratory to the Agency within 30 days, or as otherwise indicated by the Agency. The nonconformities identified in the FAT EQAS and the assessment report shall be satisfactorily addressed by the laboratory and the recommendations for improvement shall be implemented before accreditation will be granted.

(c) The Agency recommendation for accreditation.

(1) Based on the relevant documentation received from the probationary laboratory, the assessment report(s) from the Agency and from the relevant accreditation body, the Agency shall evaluate the probationary laboratory's progress in meeting all the requirements outlined in Rules 6110 and 6120.

(2) Once, as determined by the Agency (in the Agency's sole discretion), all accreditation requirements have been satisfactorily met by the probationary laboratory, the Agency will grant accreditation to the laboratory.

(3) However, if following the FAT and on-site assessment, and the review of any resulting Corrective Action Reports submitted by the probationary laboratory, the Agency determines that the probationary laboratory shall not be accredited, the laboratory will have a maximum of 6 additional months to correct and improve any pending nonconformities. The provision of documentation, the analysis of additional EQAS samples, or an additional assessment (on-site, remotely, or as a documentary audit, as determined by the Agency) may be required and, if so, will be conducted at the probationary laboratory's expense. A probationary laboratory that fails to provide satisfactory improvements after 6 months, as determined by the Agency, may be required to renew its candidacy as described in Rule 6110 or to restart the probationary phase of accreditation in accordance with paragraph (a) of this Rule 6120.

(d) Issuing and publishing of HEAL accreditation certificate. An accreditation certificate signed by a duly authorized representative of the Agency shall be issued in recognition of the HEAL accreditation. It shall specify probationary or final accreditation status. Such accreditation certificate shall specify the name of the Laboratory and the period for which the accreditation certificate is valid. Accreditation certificates may be issued after the effective date, with retroactive effect. A list of HEAL accredited

laboratories, together with internationally approved laboratories, shall be published on the Agency's website.

Rule 6130. Maintaining HEAL Accreditation

(a) Maintain ISO/IEC 17025 accreditation. The Laboratory shall maintain accreditation to ISO/IEC 17025, with primary reference to the analysis of Samples, granted by an accreditation body, which may be specified by the Agency, and which shall be an International Laboratory Accreditation Cooperation (ILAC) full member that is a signatory to the ILAC Mutual Recognition Arrangement (ILAC MRA) for testing activities as defined in ISO/IEC 17025. Flexible scope of accreditation must be included in the Laboratory's scope of accreditation.

(b) Participation in the Agency EQAS program. Laboratories are required to participate in the Agency EQAS on a continuous basis and meet the performance requirements of the EQAS as described in the Rule 6200 Series.

(c) Laboratory independence and impartiality.

(1) The Laboratory shall be administratively and operationally independent from any organization or person(s) that could exert undue pressure on the Laboratory and affect the impartial execution of its tasks and operations. Laboratories shall comply with these requirements of administrative and operational independence by the program effective date, unless otherwise approved by the Agency.

(2) In order to be operationally independent, the Laboratory shall manage its own affairs without hindrance, interference, or direction from any Person, except in accordance with the Laboratory Standards. The Laboratory shall, without limitation, control: the allocation of its budget; the procurement of equipment and other resources; Laboratory personnel decisions; the research conducted by the Laboratory; and all Sample Analytical Testing and reporting of results. The Laboratory shall not accept money from any Covered Person.

(3) The Laboratory shall have a dedicated budget allowing the implementation of an efficient approval process for the timely procurement of necessary Reference Materials, reagents, consumables and essential equipment, as well as independent Laboratory management decisions concerning the recruitment, retention and training of staff, participation in scientific meetings and symposia, and other relevant scientific decisions. This does not prevent the Laboratory from receiving research grants or other financial support from its host organization (*e.g.,* university, public institution), anti-doping organizations, sport organizations, governments, or other sponsors, while following applicable accounting regulations in connection with the receipt and management of those funds.

(d) Document compliance with the Code of Ethics.

(1) The Laboratory shall comply with the provisions of the Code of Ethics.

(2) The Laboratory shall annually provide to the Agency a letter of compliance with the provisions of the Code of Ethics, signed by the Laboratory Director. All staff employed at the Laboratory, permanent or temporary, shall also read, agree to, and sign documentation to indicate their agreement to the Code of Ethics. The Laboratory may be asked to provide documentation of compliance with the provisions of the Code of Ethics.

(3) The Laboratory shall establish a system requiring Laboratory staff to report any alleged breaches of the Code of Ethics to the Laboratory Director, which the Laboratory Director shall promptly report to the Agency. However, if Laboratory staff suspect that the Laboratory Director may have breached the Code of Ethics, the Laboratory staff shall promptly report the alleged breaches of the Code of Ethics directly to the Agency. The Laboratory Director or the Agency, as applicable, shall immediately and thoroughly investigate any alleged breach of the Code of Ethics.

(4) If the Laboratory's investigation determines that a breach of the Code of Ethics occurred, the Laboratory Director shall immediately inform the Agency of the results of the investigation and the disciplinary actions taken. The Agency may also impose penalties as a result of its own investigations. Penalties may range from a personal reprimand to the expulsion of the implicated Laboratory staff member(s), the reporting of the breach to the pertinent authorities (*e.g.,* law enforcement), the suspension or revocation of the Laboratory's HEAL accreditation, or any other follow-up measures the Agency determines to be appropriate.

(e) Document implemented research and development activities.

(1) The Laboratory shall develop and maintain a plan for research and development in the field of anti-doping science. The research activities can either be conducted by the Laboratory alone or in cooperation with other Laboratories or other research organizations.

(2) The Laboratory shall supply an annual progress report to the Agency documenting research and development results in the field of anti-doping science. The Laboratory shall also relate research and development plans for the following year.

(3) The annual research summary will be evaluated and scored by the LabEG. The Laboratory must, except where otherwise agreed by the Agency, achieve the minimum requirement to meet accreditation research requirements in Rule 6620.

(f) Document implemented sharing of knowledge.

(1) The Laboratory shall demonstrate its willingness and ability to share knowledge with other Laboratories. The Laboratory shall disseminate the results of its research and development activities to other Laboratories. The Laboratory is encouraged to make at least one annual contribution to an anti-doping symposium or conference. Laboratories are encouraged to: participate in collaborative research projects with other Laboratories; exchange experience and protocols with other Laboratories; arrange for visits of specialists with other Laboratories; and provide training to other Laboratories and probationary laboratories in specific areas of Analytical Testing.

(2) The Laboratory shall supply a report on sharing of knowledge with other Laboratories to the Agency, if requested. A description of sharing of knowledge is provided in the Code of Ethics.

(g) Maintain professional liability insurance coverage. Laboratories shall provide documentation to the Agency including evidence that professional liability risk insurance coverage is maintained of no less than $5,000,000 annually (for example, evidence of timely payment of applicable fees and premiums).

(h) Maintain minimum number of Samples.

(1) To maintain proficiency in Analytical Testing, Laboratories are required to analyze a minimum of 2,500 Samples provided annually by the Agency. To determine the minimum number of Samples, each urine Sample and blood Sample analyzed by the Laboratory (excluding Samples submitted for TCO2 analysis only), regardless of whether they are collected as a ''paired'' Sample, shall count as an individual Sample. The Agency will monitor the number of Samples tested by the Laboratory. Except where the Agency fails to send the minimum annual number of Samples to the Laboratory, if the number of Samples falls below the minimum, the

Laboratory's HEAL accreditation may be suspended in accordance with Rule 6510.

(2) It is recognized that specific circumstances may affect a Laboratory's ability to analyze the minimum Samples annually, such as when the Laboratory is not operational for the full calendar year. In such cases, the Agency shall require that the Laboratory implement measures to maintain proficiency in Analytical Testing, for example, by strengthening its internal Quality Assurance Scheme (iQAS) and internal audits program. The Agency may also provide additional EQAS samples, conduct a documentary audit, or an on-site or remote (online) assessment, at its discretion, to assess the status of the Laboratory's operations.

(i) Laboratory Analytical Testing Procedures and services. Laboratories shall provide to the Agency an up-to-date list of Analytical Testing Procedures and services, to assist the Agency in developing test distribution plans. Upon request, Laboratories shall cooperate with the Agency by providing other relevant information regarding Testing plans (*e.g.,* Laboratory analytical capabilities).

(j) Participating in the Agency/accreditation body re-assessments and continuous assessments during the accreditation cycle.

(1) The assessment team shall include at least one Laboratory Standards-trained assessor selected by the accreditation body for the assessment/re-assessment.

(2) The Laboratory shall (in a timely manner) send to the Agency a summary of the assessment report and any corrective or preventive action documentation addressing nonconformities.

(3) The Laboratory shall provide the Agency with an updated copy of the ISO/IEC 17025 certificate and scope of ISO/IEC 17025 accreditation as soon as it is obtained from the accreditation body.

(4) The Agency Laboratory assessment. The Agency reserves the right to conduct documentary audits, as well as inspect and assess the Laboratory, through on-site or remote (online) assessments at any time, at the Agency's expense. The notice of the Agency assessment will be made in writing to the Laboratory Director. In exceptional circumstances, and at the Agency's discretion, the assessment may be unannounced.

(5) As part of an announced or unannounced Laboratory assessment, the Agency retains the right to request copies of Laboratory documentation or request Further Analysis of selected A or B Samples, either on-site or in any Laboratory selected by the Agency.

Rule 6140. The Agency Monitoring of Accreditation Status

(a) The Agency shall regularly review the compliance of Laboratories with the requirements listed in the Laboratory Standards and related Technical Documents and Technical Letters. In addition, the Agency shall also conduct an annual review of EQAS results and of relevant routine Analytical Testing issues to assess the overall performance of each Laboratory and to decide its accreditation status.

(b) Maintenance of HEAL accreditation. Compliance with all the requirements established in Rule 6130, including satisfactory performance by a Laboratory in the EQAS and in routine Analytical Testing, as determined by the Agency, is a critical requirement for the maintenance of the Laboratory's HEAL accreditation.

(c) Issuing and publication of accreditation certificate. On an annual basis, when maintenance of accreditation is approved by the Agency, the Laboratory shall receive a HEAL accreditation certificate, signed by a duly authorized representative of the Agency, which is issued in recognition of such accreditation. The accreditation certificate shall specify the name of the Laboratory and the period for which the accreditation certificate is valid. HEAL accreditation certificates may be issued after the effective date, with retroactive effect. The list of the HEAL-accredited Laboratories is maintained on the Agency's website.

6200. The Agency External Quality Assessment Scheme

Rule 6210. The Agency External Quality Assessment Scheme

The Agency regularly distributes External Quality Assessment Scheme (EQAS) samples to Laboratories and, when applicable, to probationary laboratories. The Agency EQAS is designed to continually monitor the capabilities of the Laboratories and probationary laboratories, to evaluate their proficiency, and to improve test result uniformity between Laboratories. EQAS samples are used to assess Laboratory routine analytical capacity and performance, reporting turn-around times, and overall compliance with the Agency Laboratory standards (*e.g.,* Laboratory Standards, Technical Documents and Technical Letters), as well as other, non-analytical performance criteria. At the same time, the EQAS also represents, via its educational components, a source of continuous improvement for the effectiveness of the Analytical Testing Procedures.

Rule 6220. Types of EQAS

(a) Blind EQAS. The Laboratory will be aware that the sample is an EQAS sample since it is delivered by the Agency's EQAS sample provider. However, the Laboratory will not know the content of the sample.

(b) Double-blind EQAS. The Laboratory will not be aware that the sample is an EQAS sample since it is delivered by the Agency and is indistinguishable from routine Samples.

(c) Educational EQAS.

(1) Educational EQAS samples may be provided as open (in which case the content of the EQAS sample is known), blind or double-blind samples. This approach is used for educational purposes or for data gathering.

(2) As part of the educational EQAS, the Agency may provide Laboratories with new Reference Materials, Reference Collections, or quality control (QC) samples for a prompt implementation of existing or new Analytical Testing Procedures.

(3) The Agency may require the successful participation of Laboratories in an educational EQAS for the Agency-specific Analytical Testing Procedures for Laboratories to seek an extension of the Laboratory's scope of ISO/IEC 17025 accreditation by an accreditation body before the subsequent application of the Analytical Testing Procedure to the routine analysis of Samples.

Rule 6230. Number of EQAS Samples

(a) The actual composition and number of EQAS samples supplied to different Laboratories may vary; however, within any calendar year, all Laboratories participating in the EQAS are expected to have analyzed the minimum total number of EQAS samples.

(b) Each year, the EQAS program will consist of:

(1) At least 15 blind EQAS samples, distributed by the Agency in multiple rounds;

(2) At least 5 double-blind EQAS samples, distributed by the Agency in multiple rounds; and

(3) At least 3 of the above EQAS samples will contain Threshold Substances.

(c) As part of the Agency's Laboratory monitoring activities, and with the main purpose of assisting Laboratories in their continuous improvement of performance, the Agency may increase the number of annual EQAS samples (mainly for educational purposes) for

certain Laboratories, according, but not limited, to the following criteria:

(1) Monitoring the effectiveness of corrective action implementation after questionable or unsatisfactory performance in the Agency EQAS or in routine Analytical Testing;

(2) Substantiated intelligence information received by the Agency indicating questionable or unsatisfactory Laboratory performance;

(3) Laboratories which do not receive enough Samples (<100 annual Samples) for a specific Analytical Testing Procedure, which is not part of the Laboratory's routine Analytical Testing menu; and

(4) As part of the Agency's Laboratory assessments.

Rule 6240. Composition of EQAS Samples

(a) EQAS samples may or may not contain Prohibited Substance(s) or Metabolite(s) of Prohibited Substance(s) or Marker(s) of Prohibited Substance(s) or Prohibited Method(s).

(b) Blank EQAS samples. Blank EQAS samples do not contain Prohibited Substance(s) or Metabolite(s) of Prohibited Substance(s) or Marker(s) of Prohibited Substance(s) or Prohibited Method(s).

(c) Adulterated EQAS samples. Adulterated EQAS samples are those which have been deliberately adulterated by the spiking of non-characteristic Metabolite(s) or by the addition of extraneous substances designed to dilute or concentrate the sample, or to degrade or mask the Analyte prior to or during the analytical determination. Adulterated EQAS samples may also be obtained from the controlled administration or the addition of non-prohibited substances, which share common Metabolite(s) with Prohibited Substance(s).

(d) EQAS samples containing Prohibited Substance(s), their Metabolite(s) or Marker(s), or the Marker(s) of Prohibited Method(s).

(1) The concentration(s) of selected Analyte(s) are those that may be encountered in the urine or blood after Use of Prohibited Substance(s) or Prohibited Method(s). For some Analytes, the EQAS sample may contain the parent Prohibited Substance or its Metabolite(s) or its Marker(s).

(2) EQAS samples may be spiked with Prohibited Substance(s) or their Metabolite(s) or Marker(s) but, where appropriate, may be prepared from controlled administration studies. The EQAS sample composition shall reflect as closely as possible the expected target Analyte Metabolite pattern and concentrations usually found in Samples.

(3) An EQAS sample may contain more than one Prohibited Substance, Metabolite(s), or Marker(s) of a Prohibited Substance or Prohibited Method. It may also contain multiple Metabolites or Markers of a single Prohibited Substance or Markers of a Prohibited Method, which would represent the presence of a single Prohibited Substance or the Use of a single Prohibited Method.

(4) Double-blind EQAS samples shall be representative of Samples. Therefore, to the extent possible (in consideration, for example, of technical or ethical constraints, availability of the pharmaceutical grade substance), double-blind EQAS samples containing Prohibited Substance(s) or Metabolite(s) of Prohibited Substance(s) or Marker(s) of Prohibited Substance(s) or Prohibited Method(s) shall be prepared from controlled administration studies performed in equine subjects. However, if this is not possible, then the double-blind EQAS sample(s) may be prepared by spiking expected target Analyte(s) in the Sample matrix in consideration of the representative metabolic profile(s).

(5) For Non-Threshold Substances, the concentration in the EQAS sample will be guided by, but not limited to, one of the following criteria: concentrations of the Prohibited Substance or its Metabolite(s) or Marker(s) equal to or greater than (≥) the applicable MRPL; concentrations of the Prohibited Substance or its Metabolite(s) or Marker(s) between 50% of the MRPL and the MRPL (applicable only to Non-Threshold Substances prohibited at all times and with no Minimum Reporting Levels); Non-Threshold Substances with Minimum Reporting Levels or other limits controlling them (*e.g.,* substances prohibited in a Post-Race Sample only), will normally be present in estimated concentrations greater than (>) 120% of the applicable Minimum Reporting Level; or concentrations of the Prohibited Substance or its Metabolite(s) or Marker(s) below (<) 50% of the applicable MRPL (for Non-Threshold Substances prohibited at all times with no Minimum Reporting Levels, for educational purposes).

(6) For Threshold Substances, the concentration in the EQAS sample will be guided by, but not limited to, one of the following criteria: greater than (>) 10% of the Threshold as established in any relevant Technical Document(s) or Laboratory Guidelines; or less than (<) 50% of the Threshold for those Threshold Substances whose presence shall be reported if detected in the presence of diuretics or masking agents.

Rule 6250. Laboratory Analytical Testing Procedures Used in EQAS

All procedures associated with the Analytical Testing of the EQAS samples by the Laboratory are to be conducted in a manner substantially similar to that applied to routine Samples, unless otherwise specified by the Agency. No effort shall be made to optimize instrument (*e.g.,* change multipliers or chromatographic columns) or method performance prior to analyzing the EQAS samples, unless it is a scheduled maintenance activity. Only validated, Fit-for-Purpose Analytical Testing Procedures described in the Laboratory's Standard Operating Procedures are to be employed in the analysis of EQAS samples (*i.e.,* using the Initial Testing Procedures and Confirmation Procedures applied in routine Analytical Testing).

Rule 6260. Reporting of EQAS Results

(a) The purpose of the EQAS program is to ensure that all Laboratories maintain proficiency in the performance of their Analytical Testing Procedures and report valid results to the Agency in a timely manner.

(b) In the spirit of the EQAS program, a Laboratory shall not communicate with other Laboratories regarding the identity or content of substances present in or absent from blind EQAS samples prior to the submission of EQAS results to the Agency. This prohibition also applies to Laboratory requests for second opinions, which shall not be requested for blind EQAS samples.

(c) Contact between Laboratories regarding any aspect of blind EQAS analysis (including the results obtained) prior to reporting by all Laboratories to the Agency will be considered an attempt to circumvent the quality control assessment.

(d) For double-blind EQAS samples, which are indistinguishable from routine Samples, consultation between Laboratories before reporting such EQAS results to the Agency may occur. However, such consultation shall not involve identifying the sample as an Agency double-blind EQAS sample (in cases when, for any reason, the Laboratory identifies the EQAS nature of the sample).

(e) Reporting blind EQAS results.

(1) The Laboratory shall report the results of blind EQAS samples to the Agency in the same manner as specified for routine Samples (see Rule 6316) unless otherwise notified by the Agency. For some blind EQAS samples or sample sets, additional information may be requested from the Laboratory (*e.g.,* LODs, LOQs, MU estimations).

(2) The results of the blind EQAS shall be submitted to the Agency on or before the specified reporting date, unless an extension is granted by the Agency. Failure to report results of blind EQAS samples will be considered a false Negative Finding(s).

(f) Reporting double-blind EQAS results.

(1) The Laboratory shall report the results of double-blind EQAS samples as per Rule 6316.

(2) Reporting of double-blind EQAS results shall occur within the same timeframe as specified for routine Samples, unless an extension is granted by the Agency.

(3) Failure to report double-blind EQAS results within this timeframe or, subject to an extension of this deadline granted by the Agency pursuant to subparagraph (2) above, within the agreed or the Agency-approved deadline, will be considered a false Negative Finding(s).

(g) Reporting educational EQAS results.

(1) The Laboratory shall report the results of open or blind educational EQAS samples on or before the specified reporting deadline and in a format specified by the Agency. Results received after the deadline will not be included in the assessment of EQAS results or in the subsequent educational EQAS report and will be considered a false Negative Finding(s).

(2) For open educational and blind EQAS samples, the Laboratory shall report the LODs of the identified Non-Threshold Substance(s) or Metabolite(s) or Marker(s), or of the identified Marker(s) of Prohibited Method(s), as estimated during method validation of the Initial Testing Procedure.

(h) Reporting results for EQAS samples containing Non-Threshold Substances. Unless otherwise specified by the Agency (for example, for an educational EQAS), the report of EQAS results for Non-Threshold Substances shall include all the Analytes whose presence in the EQAS sample has been confirmed by the Laboratory, including the Prohibited Substance(s) (*e.g.,* parent compound(s), if applicable) and all identified Metabolite(s) or Marker(s) of the Prohibited Substances or Marker(s) of Prohibited Method(s). The Agency may also require that the Laboratory report the estimated concentrations of the confirmed Analyte(s).

(i) Reporting results for EQAS samples containing Threshold Substances.

(1) For educational and blind EQAS samples, the report of EQAS results for Threshold Substances shall include the values measured for each aliquot analyzed, whenever the measured mean value of all replicates is greater than or equal to (≥) 50% of the applicable Threshold.

(2) For double-blind EQAS samples, the Laboratory shall report the quantitative results to, and in a form designated by, the Agency for routine Samples, in accordance with any relevant Technical Document(s), Technical Letter(s) or Laboratory Guidelines.

6300. Analysis of Samples

Rule 6301. Application of ISO/IEC 17025 to the Analysis of Samples

(a) Introduction and scope. This section of the Laboratory Standards is intended as an extension of the application of ISO/IEC 17025 and ILAC–G7 to the field of Doping Control. Any aspect of Analytical Testing or management not specifically discussed in this document or in any relevant Technical Documents, Technical Letters or Laboratory Guidelines shall be governed by ISO/IEC 17025. The application focuses on the specific parts of the processes that are critical with regard to the quality of the laboratory's performance as a Laboratory and are, therefore, significant in the evaluation and accreditation process.

(b) This section introduces the specific performance standards for a Laboratory, as applicable. The conduct of Laboratory Analytical Testing is considered a process within the definitions of ISO 17000. Performance standards are defined according to a process model where the Laboratory practice is structured into 3 main categories of processes:

(1) structural and resource requirements;

(2) process requirements; and

(3) management requirements.

Rule 6302. Subcontracting Analysis

(a) A Laboratory may subcontract an analysis to another Laboratory, in consultation with, and following written approval from, the Agency. The conditions that justify subcontracting include, for example:

(1) A specific technology or Analyte(s) that are not within the Laboratory's scope of ISO/IEC 17025 accreditation;

(2) An Analytical Testing Restriction decision;

(3) Other valid explanations, such as a need for higher sensitivity or specific equipment or expertise, temporary workload or technical incapacity;

(4) In exceptional circumstances, the Agency may elect to grant specific authorization to subcontract analyses using specific methods to an ISO/IEC 17025-accredited laboratory approved by the Agency, which has the necessary technique within its scope of ISO/IEC 17025 accreditation (for example, DNA analysis or genomic profiling);

(5) Other specific investigations, such as, without limitation, forensic examinations which need to be performed in the course of the Analytical Testing process may also be subcontracted by the Laboratory.

(b) In all such cases, the Laboratory subcontracting the analysis is only responsible for the maintenance of the appropriate Chain of Custody up to Sample reception by the subcontracted Laboratory. Such arrangements shall be clearly recorded as part of the Sample's documentation and included in the Laboratory Documentation Package, if applicable.

Rule 6303. Samples With Irregularities

(a) The Laboratory shall observe and document conditions that exist at the time of Sample reception or registration that may adversely impact on the integrity of a Sample or on the performance of Analytical Testing Procedures. Only unusual conditions shall be recorded.

(b) Irregularities to be noted by the Laboratory may include, but are not limited to:

(1) Sample transport conditions (*e.g.,* delivery time, temperature), which may impact the integrity of the Sample for Analytical Testing, as determined by the Laboratory;

(2) Sample collection information (including Sample identification Protocol), which is necessary to conduct the Analytical Testing menu requested by the Agency, is not provided (*e.g.,* missing or incomplete Sample collection documentation);

(3) Sample identification is questionable. For example, if the number on the Sample container does not match the Sample identification number on the Sample collection documentation;

(4) Covered Person or Covered Horse information is visible on the Laboratory copy of the Sample collection documentation or any other document transferred to the Laboratory;

(5) Sample identification numbers are different between the A and the B Sample containers of the same Sample;

(6) Tampering or adulteration of the Sample is evident;

(7) Sample is not sealed with Tamper Evident device or not sealed upon receipt;

(8) Sample volume does not meet the suitable volume for analysis or is otherwise inadequate to perform the

Analytical Testing menu requested by the Agency;

(9) The Sample contains foreign objects, such as insects; or

(10) The Sample condition(s) is unusual (*e.g.,* color, odor, presence of turbidity or foam in a urine Sample, color, hemolysis, freezing or clotting of a blood Sample, or unusual differences in Sample appearance (such as color or turbidity) between the A and the B Samples).

(c) When an analysis on a Sample with documented irregularities is performed, the Laboratory shall record the irregularities in the test report.

Rule 6304. Sample Splitting Procedure

(a) In cases when either the A or B Sample is not suitable for the performance of the analyses (*e.g.,* there is insufficient Sample volume, the Sample container has not been properly sealed or has been broken, the Sample's integrity has been compromised in any way, the Sample is heavily contaminated, the A or B Sample is missing), the Laboratory shall notify and consult with the Agency regarding whether it is appropriate to split the other Sample container (A or B, as applicable), provided that it is properly sealed. The Agency should inform the Laboratory of its decision in writing within 3 days of notification by the Laboratory. If the Agency decides not to proceed with the Sample splitting procedure, then the Laboratory shall report the Sample as ''not analyzed,'' including the noted Sample irregularities and the documented reasons if provided by the Agency.

(b) The first fraction of the split Sample shall be considered as the A Sample and shall be used for the Initial Testing Procedure(s), unless the Initial Testing Procedure(s) have already been performed, and the A Confirmation Procedure(s), if necessary. The second fraction, considered as the B Sample, shall be resealed and stored frozen for the B Confirmation Procedure(s), if necessary.

(c) The process of opening and splitting the Sample and resealing of the remaining second fraction shall be conducted in accordance with Rule 6312 for a customary B Sample opening.

(d) When the splitting procedure concerns blood Samples, which have been collected for Analytical Testing on the blood serum/plasma fraction, the sealed, intact (A or B) Sample shall be centrifuged as soon as practicable after Laboratory reception to obtain the serum or plasma fraction. The centrifuged Sample shall be stored frozen in the sealed Sample collection tube according to established protocols until the Sample opening/splitting procedure can be conducted. The opening of the Sample for the splitting of the serum/plasma fraction and resealing of the second fraction shall be carried out as described immediately above.

Rule 6305. Initial Storage and Sample Aliquoting for Analysis

(a) The Aliquot preparation procedure for any Initial Testing Procedure or Confirmation Procedure shall minimize the risk of contamination of the Sample or Aliquot. The Laboratory shall use new material(s) (*e.g.,* new test tubes, disposable pipettes or pipettes with disposable, non-reusable tips) to take Aliquots for Confirmation Procedures.

(b) Urine Samples. In order to maintain the stability and integrity of the urine Samples, the Laboratory shall implement Sample storage procedures that minimize storage time at room and refrigerated temperatures, as well as Sample freeze/thaw cycles.

(1) For urine Samples, the Laboratory shall obtain, following proper homogenization of the Sample, an initial Aliquot containing enough Sample volume for all analytical procedures (*i.e.,* all Initial Testing Procedures or all intended Confirmation Procedures, as applicable), by decanting the Aliquot from the urine Sample container into a secondary container (*e.g.,* a Falcon tube). Procedure-specific Aliquot(s) shall then be taken from the secondary container.

(2) The Laboratory shall measure the pH and specific gravity of urine Samples once, using one Aliquot, during the Initial Testing Procedure and the Confirmation Procedure(s) (A and B Samples). Other tests that may assist in the evaluation of adulteration or manipulation may be performed, if deemed necessary by the Laboratory.

(3) Urine A Samples shall be frozen after Aliquots are taken for the Initial Testing Procedure(s) to minimize risks of Sample microbial degradation. Urine B Samples shall be stored frozen after reception until analysis, if applicable.

(c) Blood Samples. The Laboratory shall follow any applicable Agency procedures, Technical Document(s), and Technical Letter(s) for handling and storing blood Samples.

Rule 6306. Selection and Validation of Analytical Testing Procedures

(a) The Laboratory shall select, validate, and document Analytical Testing Procedures, which are Fit-for-Purpose for the analysis of representative target Analytes of Prohibited Substances and Prohibited Methods.

(b) Validation results for Analytical Testing Procedures shall be summarized in a validation report and supported by the necessary documentation and analytical data. The validation report shall indicate whether the Analytical Testing Procedure is Fit-for-Purpose and shall be included in a Laboratory scope of accreditation.

(c) The Laboratory shall define and document the conditions that would trigger the revalidation of an Analytical Testing Procedure (*e.g.,* change of internal standard, modified extraction procedure or chromatographic methodology, change in detection technique) or a partial re-assessment of the validation process (*e.g.,* replacement or upgrade of instrument, addition of new Analyte to the Analytical Method).

(d) Validation of Analytical Testing Procedures for Non-Threshold Substances. The Laboratory shall develop, as part of the method validation process, appropriate standard solutions for detection or identification and estimation of the concentration of Non-Threshold Substances. In the absence of suitable Reference Materials, Reference Collections may be used for detection and identification.

(1) Validation of Initial Testing Procedures for Non-Threshold Substances.

(i) The Laboratory shall validate the Selectivity, carryover, reliability of detection at the MRPL and Limit of Detection (LOD) for the Initial Testing Procedure from the analysis of an adequate number of representative samples prepared in the appropriate matrix of analysis. For chromatographic-mass spectrometric Analytical Methods, the Initial Testing Procedure shall allow the detection of each Non-Threshold Substance or its representative Metabolite(s) or Marker(s) at 50% or less of the Minimum Required Performance Levels (MRPL).

(ii) For Non-Threshold Substances with Minimum Reporting Levels (MRL), the Laboratory shall validate and document the estimated concentration levels that will require a Confirmation Procedure.

(iii) If there is no available Reference Material, an estimate of the detection capability of the Initial Testing Procedure (*i.e.,* the LOD) for the Non-Threshold Substance or its representative Metabolite(s) or Marker(s) may be provided by assessing a representative substance from the same class of Prohibited Substances with a similar chemical structure.

(2) Validation of Confirmation Procedures for Non-Threshold Substances. Factors to be investigated in the method validation procedure to

demonstrate that a Confirmation Procedure for Non-Threshold Substances is Fit-for-Purpose include, but are not limited to:

(i) *Selectivity:* The ability of the Confirmation Procedure to detect and identify the Analyte of interest, taking into account interference(s) from the matrix or from other substance(s) present in the Sample. Selectivity shall be determined and documented from the analysis of an adequate number of representative samples prepared in the matrix of Sample analysis, in compliance with any applicable Agency procedures, Technical Document, Technical Letter, or Laboratory Guidelines. The Confirmation Procedure shall be able to discriminate between Analytes of closely related structures;

(ii) *Limit of Identification (LOI):* When the analyses of Non-Threshold Substances are based on chromatographic-mass spectrometric techniques, the Laboratory shall determine the lowest concentration at which each Non-Threshold Substance or its representative Metabolite(s) or Marker(s), for which a Reference Material is available, is identified at no more than 5% false negative rate (in compliance with any applicable Agency procedures, Technical Document, Technical Letter, or Laboratory Guidelines). The LOI shall be lower than the applicable MRPL;

(iii) *Robustness:* The Confirmation Procedure shall be demonstrated to produce similar results with respect to minor variations in analytical conditions, which may affect the results of the analysis. Those conditions that are critical to ensuring reproducible results shall be considered; and

(iv) *Carryover:* The conditions required to eliminate carryover of the substance of interest from Sample to Sample during processing or instrumental analysis. Elimination of ''injection memory'' effect is demonstrated by injecting a blank control sample for the Analyte in question, prepared in the Sample matrix, immediately prior to the Sample of interest.

(3) Validation of Analytical Testing Procedures for Threshold Substances.

(i) As part of the validation process for chromatography-mass spectrometric Analytical Methods applied to the analysis of Threshold Substances, the Laboratory shall develop acceptable standard solutions for identification of Threshold Substances. For Confirmation Procedures, Certified Reference Materials shall be used for quantification, if available.

(ii) For the application of affinity-binding assays, or other methods as applicable, to the analysis of Threshold Substances, the Laboratory shall follow any applicable Agency procedures and Technical Document, and should follow any relevant Laboratory Guidelines.

(4) Validation of Initial Testing Procedures for Threshold Substances.

(i) The Laboratory shall validate Initial Testing Procedures that are Fit-for-Purpose, in accordance with any applicable Technical Document(s), Technical Letter(s), or Laboratory Guidelines.

(ii) For chromatographic-mass spectrometric Initial Testing Procedures, the Laboratory shall validate the Selectivity, LOD and dynamic range from the analysis of an adequate number of representative samples prepared in the appropriate matrix of analysis, unless otherwise specified.

(iii) Unless otherwise specified, the Laboratory shall validate and document the estimated concentration levels which will require quantitative Confirmation Procedure(s).

(iv) In order to account for a possible underestimation of concentrations of Threshold Substances during non-quantitative Initial Testing Procedures, the Laboratory shall establish and document in the Test Method's SOP criteria (*e.g.,* concentration levels) determined, during the Initial Testing Procedure method validation, to evaluate initial results as Presumptive Adverse Analytical Findings and ensure that all potentially positive Samples are subjected to quantitative Confirmation Procedures.

(v) The estimation of Measurement Uncertainty (MU) is not required during the validation of Initial Testing Procedures, unless otherwise specified.

(5) Validation of Confirmation Procedures for Threshold Substances. Factors to be investigated during the method validation to demonstrate that a quantitative Confirmation Procedure for a Threshold Substance is Fit-for-Purpose include, but are not limited to:

(i) Selectivity, LOI, robustness, and carryover;

(ii) *Limit of Quantification (LOQ):* The Laboratory shall demonstrate that a quantitative Confirmation Procedure has an established LOQ of no more than 50% of the Threshold value, in accordance with the LOQ values required in relevant Technical Document(s) or in consideration of Laboratory Guidelines;

(iii) *Dynamic range:* The range of the quantitative Confirmation Procedure shall be documented from at least 50% to 200% of the Threshold value;

(iv) *Repeatability (sr):* The quantitative Confirmation Procedure shall allow for the reliable repetition of the results over a short time, using a single operator and item of equipment. Repeatability at levels close to the Threshold shall be determined;

(v) *Intermediate Precision (sw):* The quantitative Confirmation Procedure shall allow for the reliable repetition of the results at different times and with different operators and instruments, if applicable, performing the assay. Intermediate Precision at levels close to the Threshold shall be determined;

(vi) *Bias (b):* The Bias of the measurement procedure shall be evaluated either using Certified Reference Materials or traceable Reference Materials, if available, or from comparison with a reference method or with the consensus values obtained from an inter-Laboratory comparison study or EQAS participation. Bias at the levels close to the Threshold shall be determined;

(vii) *Measurement Uncertainty (MU):* The MU associated with the results obtained with the quantitative Confirmation Procedure shall be estimated in accordance with any applicable Agency procedures, Technical Document(s), Technical Letter(s), or Laboratory Guidelines. At a minimum, MU at levels close to the Threshold shall be addressed during the validation of the quantitative Confirmation Procedure.

(e) Confirmation Procedure method validation data (including the estimation of MU) is evaluated during the assessment process for inclusion of the quantitative Confirmation Procedure within the Laboratory's scope of ISO/IEC 17025 accreditation. Therefore, for those Confirmation Procedures that are included within the Laboratory's scope of ISO/IEC 17025 accreditation, the Laboratory is not required to produce method validation data, SOPs, or other evidence of method validation in any legal proceeding.

Rule 6307. Sample Analysis

(a) Laboratories shall analyze Samples collected by or on behalf of the Agency using any Analytical Testing menu directed by the Agency to detect the presence of Prohibited Substances or Prohibited Methods only (as defined in the Prohibited List).

(b) Covered Persons and their representatives are not permitted to be present for any aspect of Sample analysis or processing described in the Laboratory Standards, Technical Documents, Technical Letters, Laboratory Guidelines, or Laboratory SOPs. In addition, Covered Persons are not permitted to have a Sample transferred to be tested at a laboratory.

(c) Laboratories may analyze Samples for the following, in which case the results of the analysis shall not be reported as an Atypical Finding or an Adverse Analytical Finding:

(1) Non-prohibited substances or methods that are included in the Agency monitoring program;

(2) Non-prohibited substances for results interpretation purposes (*e.g.,* non-prohibited substances that share Metabolite(s) or degradation products with Prohibited Substances), if applicable;

(3) Non-prohibited substances or methods requested as part of a Results Management process by an adjudicatory body or the Agency;

(4) Non-prohibited substances or methods requested by the Agency as part of its safety Protocol, Protocol of conduct or other regulations; or

(5) Additional analyses for quality assurance/quality improvement/method development or research purposes, in accordance with the requirements indicated in Rule 6320.

(d) At minimum, all Laboratories are required to implement all mandatory Analytical Testing Procedures, as determined by the Agency in compliance with any relevant Technical Document(s) and Technical Letter(s). Laboratories may implement additional methods for the analysis of particular Prohibited Substances or Prohibited Methods.

(e) Analytical Testing Procedure(s) included in the Laboratory's scope of ISO/IEC 17025 accreditation shall be considered as Fit-for-Purpose, and, therefore, the Laboratory shall not be required to provide method validation documentation, SOPs or EQAS performance data in support of an Adverse Analytical Finding.

(f) However, if the Analytical Testing Procedure has not been included yet in the Laboratory's scope of ISO/IEC 17025 accreditation, the Laboratory shall validate the procedure in compliance with the Laboratory Standards and any applicable Agency procedures, Technical Document(s), Technical Letter(s), or Laboratory Guidelines prior to its application to the analysis of Samples. In such cases, the Laboratory may be required to provide method validation documentation or EQAS performance data in support of an Adverse Analytical Finding.

(g) Laboratories may, on their own initiative and prior to reporting a test result, apply additional Analytical Testing Procedures to analyze Samples for Prohibited Substances or Prohibited Methods not included in the standard Analytical Testing menu requested by the Agency, provided that the additional work is authorized by the Agency, conducted at the Laboratory's expense, and does not significantly affect the possibility to submit the Sample to Further Analysis. Results from any such analysis shall be reported to, and in a form designated by, the Agency and have the same validity and Consequences as any other analytical result.

Rule 6308. Application of Initial Testing Procedures

(a) The objective of the Initial Testing Procedure is to obtain information about the potential presence of Prohibited Substance(s) or Metabolite(s) of Prohibited Substance(s), or Marker(s) of the Use of a Prohibited Substance or Prohibited Method. Results from Initial Testing Procedure(s) can be included as part of longitudinal studies (*e.g.,* endogenous steroid), provided that the method is Fit-for-Purpose.

(b) The Initial Testing Procedure(s) shall fulfill the following requirements:

(1) The Initial Testing Procedure shall be Fit-for-Purpose;

(2) The Initial Testing Procedure shall be performed on Aliquot(s) taken from the container identified as the A Sample (and if the A Sample cannot be used for the Initial Testing Procedure(s), see Rule 6304);

(3) The Initial Testing Procedure shall be recorded, as part of the Sample (or Sample batch) record, each time it is conducted;

(4) All batches undergoing an Initial Testing Procedure shall include appropriate negative and positive quality controls prepared in the matrix of analysis, unless otherwise specified by the Agency;

(5) The Initial Testing Procedures for Non-Threshold Substances shall include appropriate controls of representative substance(s) at or below the MRPL;

(6) The Initial Testing Procedures for Threshold Substances shall include appropriate controls close to the Threshold, unless otherwise specified by the Agency;

(7) Results from Initial Testing Procedures are not required to consider the associated MU, unless otherwise specified by the Agency; and

(8) The Laboratory shall establish criteria, based on its method validation and in accordance with its SOP, to evaluate results from an Initial Testing Procedure as a Presumptive Adverse Analytical Finding, which would trigger confirmation analyses.

Rule 6309. Application of Confirmation Procedures

(a) The objective of the Confirmation Procedure is to obtain a result, which supports or does not support the reporting of an Adverse Analytical Finding or Atypical Finding.

(b) A Confirmation Procedure for a Non-Threshold Substance with a Minimum Reporting Level or other control limit may also be performed if the result estimated from the Initial Testing Procedure is lower than the applicable Minimum Reporting Level, as determined by the Laboratory in accordance with the method's validation results, or as specifically required by the Agency.

(c) A result obtained in the Initial Testing Procedure for a Threshold Substance higher than the Threshold requires a Confirmation Procedure. A Confirmation Procedure may also be performed if the result obtained in the Initial Testing Procedure is lower than the Threshold, as determined by the Laboratory, or as specifically required by the Agency.

(d) Irregularities in the Initial Testing Procedure(s) shall not invalidate an Adverse Analytical Finding, which is adequately established by a Confirmation Procedure.

(e) The Confirmation Procedure(s) shall fulfill the following requirements:

(1) The Confirmation Procedure(s) shall be Fit-for-Purpose, including the estimation of the MU associated with a quantitative Confirmation Procedure;

(2) The Confirmation Procedure(s) shall be recorded, as part of the Sample (or Sample batch) record, each time it is conducted;

(3) The Confirmation Procedure shall have equal or greater Selectivity than the Initial Testing Procedure and shall provide accurate quantification results (applicable to Threshold Substances). The Confirmation Procedure shall incorporate, when possible and adequate, a different Sample extraction protocol or a different analytical methodology, unless otherwise specified by the Agency; and

(4) All batches undergoing a Confirmation Procedure shall include appropriate negative and positive quality controls prepared in the matrix of analysis.

Rule 6310. Confirmation Procedure Methods

Mass spectrometry (MS) coupled to chromatographic separation (*e.g.,* gas or liquid chromatography) is the analytical technique of choice for confirmation of most Prohibited Substances, Metabolite(s) of a Prohibited Substance, or Marker(s) of the Use of a Prohibited Substance or Prohibited Method. These are acceptable methods for both the Initial Testing Procedure and the Confirmation Procedure.

Rule 6311. A Confirmation Procedure

(a) Aliquots. The A Confirmation Procedure shall be performed using new Aliquot(s) taken from the container identified as the A Sample (and if the A Sample cannot be used for the Initial Testing Procedure(s), see Rule 6304). At this point, the link between the Sample external code, as shown in the Sample container, and the Laboratory internal Sample code shall be verified.

(b) Target Analyte(s). If the presence of more than one Prohibited Substance, Metabolite(s) of a Prohibited Substance, or Marker(s) of the Use of a Prohibited Substance or Prohibited Method is detected by the Initial Testing Procedure(s), the Laboratory shall confirm as many of the Presumptive Adverse Analytical Findings as reasonably possible (and such decision should consider the volumes available in the A and B Samples). The confirmation(s) shall prioritize the identification or quantification of the Prohibited Substance(s) or Prohibited Method(s) that carry the longest potential period of Ineligibility. The prioritization decision shall be made in consultation with the Agency and documented by the Laboratory.

(c) Repetition of the A Confirmation Procedure. The Laboratory may repeat the Confirmation Procedure for an A Sample, if appropriate, (*e.g.,* quality control failure, chromatographic peak interferences, inconclusive A confirmation results). In that case, the previous test result shall be nullified. Each repeat confirmation shall be performed using a new Aliquot(s) taken from the A Sample container and shall be recorded.

(d) A Confirmation Procedure for Non-Threshold Substances.

(1) For Non-Threshold Substances without Minimum Reporting Levels, Adverse Analytical Finding or Atypical Finding decisions for the A Sample shall be based on the identification of the Non-Threshold Substance or its characteristic Metabolite(s) or Marker(s), as applicable, in compliance with any relevant Technical Document(s) or Technical Letter(s) or in consideration of Laboratory Guidelines.

(2) For Non-Threshold Substances with Minimum Reporting Levels, Adverse Analytical Finding decisions for the A Sample shall be based on the identification of the Non-Threshold Substance or its characteristic Metabolite(s) or Marker(s), in compliance with any applicable Agency procedures or Technical Document, at an estimated concentration greater than the Minimum Reporting Level, unless there is valid justification for reporting the finding at levels below the Minimum Reporting Level (*e.g.,* if the analysis forms part of an ongoing investigation).

(e) A Confirmation Procedure for Threshold Substances.

(1) For Threshold Substances, Adverse Analytical Finding or Atypical Finding decisions for the A Sample shall be based on the confirmed identification (in accordance with any applicable Agency Procedures or Technical Document) of the Threshold Substance or its Metabolite(s) or Marker(s) and their quantitative determination in the Sample at a level exceeding the value of the relevant Decision Limit.

(2) Quantitative Confirmation Procedures for Threshold Substances shall be based on the determination of the mean of measured analytical values (*e.g.,* concentrations, chromatogram areas) or the ratio/score calculated from the mean(s) of the measured analytical values of 2 A Sample Aliquots, unless otherwise specified by the Agency. If there is not enough Sample volume to analyze 2 Aliquots, the maximum number of Aliquots that can be prepared shall be analyzed.

(3) By determining that the test result exceeds the Decision Limit, the quantitative Confirmation Procedure establishes that the Threshold Substance or its Metabolite(s) or Marker(s) is present in the Sample at a level greater than the Threshold, with a statistical confidence of at least 95%.

(4) For Threshold Substances, Markers of the ''biomarker profile'', or any other Prohibited Substance that may be produced endogenously at low levels, Adverse Analytical Finding decisions for the A Sample may also be based on the application of any Fit-for-Purpose Confirmation Procedure that establishes the exogenous origin of the Prohibited Substance or its Metabolite(s) or Marker(s). Atypical Findings may result from non-conclusive determinations of the origin (*i.e.,* endogenous vs. exogenous) of the Prohibited Substance or its Metabolite(s) or Marker(s).

Rule 6312. B Sample Procedure

(a) Testing Laboratory. If the B Sample procedure is to be performed, it will be performed in a different Laboratory from the A Sample analysis (with the choice of the Laboratory for the B Sample analysis determined exclusively by the Agency), except where the Agency considers it necessary for the same Laboratory to perform the B Sample procedure:

(1) due to reasonable concerns over Sample integrity or unstable analytes; or

(2) because no other Laboratory is available to perform the B Sample procedure within a reasonable period of time.

(b) Notification and timing of B Sample procedure.

(1) The B Sample procedure shall only be performed by the Laboratory upon request by the Agency.

(2) The Agency should inform the Laboratory, in writing, within 15 days following the reporting of an A Sample Adverse Analytical Finding by the Laboratory, whether the B Sample procedure shall be conducted. This includes situations when the Covered Person does not request the B Sample analysis or expressly or implicitly waives his or her right to the analysis of the B Sample, but the Agency decides that the B Sample procedure shall still be performed.

(3) If the B Sample procedure is to be performed, whether upon the request of the Covered Person in accordance with the Protocol or the Agency:

(i) as soon as reasonably practicable after the Agency so decides or the Covered Person so requests, the Agency should notify the Laboratory that performed the A Sample analysis, and the Laboratory that will perform the B Sample procedure, that the B Sample procedure will be performed;

(ii) within 5 days of receipt of the notice at Rule 6312(b)(3)(i), the Laboratory that performed the A Sample analysis should send the B Sample to the Laboratory that will perform the B Sample procedure; and

(iii) the Laboratory that will perform the B Sample procedure should perform the B Sample procedure as soon as reasonably practicable after receipt of the B Sample.

(4) The timing of the B Sample procedure may be strictly fixed within a very short period of time and without any possible postponement, if circumstances so justify it. This can notably and without limitation be the case when a postponement of the B Sample analysis could significantly increase the risk of Sample degradation or inadequately delay the decision-making process in the given circumstances (*e.g.,* and without limitation, during or in view of a Covered Horserace requiring rapid completion of the Sample analysis).

(c) Opening, Aliquoting and Resealing of B Sample.

(1) The B Sample procedure shall be performed using Aliquot(s) taken from the container defined as the B Sample (and if the B Sample cannot be used, see Rule 6304).

(2) If the B Sample container was not properly sealed or showed signs of

Tampering, or if the identifying numbers did not match those on the Sample collection documentation, the Laboratory shall not proceed with the B Sample procedure and will inform the Agency immediately to obtain instructions on how to proceed. In such cases, unless the entire case is dismissed, the B Sample procedure may have to be re-scheduled.

(3) The Laboratory shall ensure that the B Sample container is opened and Aliquots for the B Sample procedure are taken.

(4) The Laboratory shall also ensure that, after opening and taking Aliquots for the B Sample procedure, the B Sample is properly resealed.

(5) At a minimum, the Laboratory Director or representative shall sign another part of the Laboratory documentation attesting that the B Sample opening and aliquoting procedures occurred and that the B Sample was properly resealed.

(d) Target Analyte(s). If more than one Prohibited Substance, Metabolite(s) of a Prohibited Substance, or Marker(s) of the Use of a Prohibited Substance or Prohibited Method has been confirmed in the A Sample procedure, the Laboratory shall confirm as many of the Adverse Analytical Findings as possible given the B Sample volume available. The decision on the prioritization for the confirmation(s) shall be made to prioritize the analysis of the Prohibited Substance(s) or Prohibited Method(s) that carry the longest potential period of Ineligibility. The prioritization decision shall be made in consultation with the Agency and documented.

(e) Repetition of the B Sample procedure. The Laboratory may repeat the B Sample procedure, if appropriate, (*e.g.,* quality control failure, chromatographic peak interferences, inconclusive B confirmation results). In that case, the previous test result shall be nullified. The Laboratory may repeat the B Sample procedure using the remaining volume of the same Aliquot initially taken from the B Sample container. However, if there is not enough volume left of the initial Aliquot, then the Laboratory shall use a new Aliquot(s) taken from the re-sealed B Sample container. Each Aliquot used shall be documented.

(f) B confirmation with negative results. If the final B confirmation results are negative, the Analytical Testing result shall be considered a Negative Finding. The Laboratory shall notify the Agency immediately. If requested by the Agency, one or more Laboratories shall conduct an internal investigation of the causes of the discrepancy between the A and B Sample results. Target Analytes (*e.g.,* parent compound, Metabolite(s), and Marker(s)) used to conclude the presence of a given Prohibited Substance or Use of a Prohibited Method may differ between the A and B Confirmation Procedures. This does not mean that the B confirmation results are negative, as long as the Analyte(s) targeted allows the unequivocal and conclusive identification of the Prohibited Substance or Prohibited Method in the B Sample.

(g) B Sample procedure for Non-Threshold Substances and exogenous Threshold Substances. For Non-Threshold Substances (including those with Minimum Reporting Levels) and exogenous Threshold Substances, the B Sample results shall only confirm the presence of the Prohibited Substance(s) or its Metabolite(s) or Marker(s) identified in the A Sample (in compliance with any applicable Agency procedures or Technical Document) for the Adverse Analytical Finding to be valid, unless otherwise specified by the Agency. No quantification or estimation of concentrations of such Prohibited Substance, or its Metabolite(s) or Marker(s) is necessary.

(h) B Sample procedure for Threshold Substances.

(1) For Threshold Substances, Adverse Analytical Finding decisions for the B Sample results shall be based on the confirmed identification (in accordance with any applicable Agency procedures or Technical Document, applicable to B Sample procedures based on chromatography-mass spectrometry) of the Threshold Substance or its Metabolite(s) or Marker(s) and their quantitative determination in the Sample at a level exceeding the value of the relevant Threshold as specified in any applicable Agency procedures, Technical Document(s), or Laboratory Guidelines. Comparison of the measured value of the B Sample to the measured value of the A Sample is not necessary to establish B Sample confirmation. The B Sample value is only required to exceed the applicable Threshold (plus any Measurement Uncertainty).

(2) Quantitative B Sample procedures for Threshold Substances shall be based on the determination of the mean of measured analytical values (*e.g.,* concentrations, chromatogram areas) or the ratio/score calculated from the mean(s) of the measured analytical values of 2 B Sample Aliquots, unless otherwise specified by the Agency. If there is not enough Sample volume to analyze 2 Aliquots, the maximum number of Aliquots that can be prepared shall be analyzed.

(3) For Threshold Substances or any other Prohibited Substance that may be produced endogenously at low levels, Adverse Analytical Finding decisions for the B Sample results may also be based on the application of any Fit-for-Purpose Analytical Testing Procedure that establishes the exogenous origin of the Prohibited Substance or its Metabolite(s) or Marker(s). Atypical Findings may result from non-conclusive determinations of the origin (*i.e.,* endogenous vs. exogenous) of the Prohibited Substance or its Metabolite(s) or Marker(s).

Rule 6313. Further Analysis of Stored Samples

(a) Further Analysis of stored Samples shall, as a matter of principle, be aimed at detecting all the Prohibited Substance(s) or Metabolite(s) of Prohibited Substance(s), or Marker(s) of the Use of a Prohibited Substance or Prohibited Method included in the Prohibited List in force at the time of the collection of the Sample(s).

(b) Selection of Samples and Laboratories for Further Analysis.

(1) Stored Samples may be selected for Further Analysis at the discretion of the Agency or the Authority.

(2) The choice of which Laboratory will conduct the Further Analysis will be made by the Agency. Requests to the Laboratory for Further Analysis shall be made in writing and be recorded as part of the Sample's documentation.

(3) When a Sample has been reported as a Negative Finding or Atypical Finding, there is no limitation on the Agency to conduct Further Analysis on the Sample.

(4) Further Analysis may also be performed on stored Samples that were previously reported as Adverse Analytical Findings. Any Prohibited Substance or Prohibited Method detected, which was prohibited at the time of Sample collection, shall be reported.

(5) Previously acquired Initial Testing Procedure data may also be re-evaluated for the presence of Prohibited Substances or their Metabolite(s) or Marker(s) of Prohibited Substances or Prohibited Methods, at the initiative of the Agency or the Laboratory itself. The results of such re-evaluation, if suspicious, shall be communicated to the Agency, and may lead to Further Analysis.

(c) Analytical Testing Procedures for Further Analysis of stored Samples.

(1) Further Analysis of stored Samples shall be performed under the Laboratory Standards, Technical Documents, and Technical Letters in effect at the time the Further Analysis is performed. Any

Laboratory Guidelines may also be referenced.

(2) Further Analysis of stored Samples includes, notably, but without limitation, the application of newly developed or more sensitive Analytical Testing Procedures or the analysis of new target Analytes of Prohibited Substance(s) or Prohibited Method(s) (*e.g.,* Metabolite(s) or Marker(s)), which were not known or not included in the initial Analytical Testing of the Sample.

(3) Depending on the circumstances, and to ensure an effective and targeted use of the available Sample volume, priorities may be set, or the scope of the Further Analysis restricted to specific analyses (in particular, but without limitation, to analyses based on new or improved Analytical Testing Procedures).

(d) Further Analysis of stored Samples process.

(1) Use of the A Sample. The Agency may instruct the Laboratory to use the A Sample for both the Initial Testing Procedure(s) and the A Confirmation Procedure(s), to use it only for the Initial Testing Procedure(s), or not to use the A Sample for Further Analysis at all.

(i) If the Laboratory has been instructed to perform only the Initial Testing Procedure(s) on the A Sample, any suspicious analytical result obtained from the A Sample shall be considered as a Presumptive Adverse Analytical Finding, irrespective of the Analytical Testing Procedure applied, and shall be confirmed using the split B Sample.

(ii) When a Confirmation Procedure is performed on the A Sample and an Adverse Analytical Finding is reported on this basis, the B Sample procedure shall be applicable (as per Rule 6316).

(2) Use of the split B Sample. When the A Sample is used only for the Initial Testing Procedure(s) or is not used at all during Further Analysis, the B Sample shall be split and used for analysis. The B Sample shall be split into 2 fractions, in accordance with Rule 6304.

(i) In the event an Adverse Analytical Finding is notified based on the results of a B Sample procedure of the first fraction of the B Sample, the second split fraction of the B Sample shall be deemed as the B Sample. Since the first split fraction of the B Sample is considered as an A Sample, analysis of Aliquots taken from this Sample may include the performance of Initial Testing Procedure(s) and A Confirmation Procedures or A Confirmation Procedures only (if the Initial Testing Procedure(s) was/were already performed using the A Sample).

(ii) If applicable, a B confirmation shall be decided and performed in accordance with Rule 6316.

(e) Alternative biological matrices. Any negative Analytical Testing results obtained from hair, hoof, saliva or other biological material shall not be used to counter Adverse Analytical Findings or Atypical Findings from urine, blood (including whole blood, plasma or serum), or hair.

Rule 6314. Ensuring the Validity of Analytical Results

(a) The Laboratory shall monitor its analytical performance and the validity of test results by operating quality control schemes, which are appropriate to the type and frequency of Analytical Testing performed by the Laboratory. The resulting data shall be recorded in such a way that trends are detectable and, where practicable, statistical techniques shall be applied to review the results.

(b) All quality control procedures shall be documented by the Laboratory. The range of quality control activities include, but are not limited to:

(1) Use of appropriate quality control samples (QCs).

(i) Appropriate positive and negative QCs shall be included in every analytical run both for the Initial Testing Procedure(s) and B Sample procedure(s), unless otherwise specified by the Agency.

(ii) Appropriate internal standard(s) shall be used for chromatographic methods.

(iii) For Threshold Substances, quality control charts (QC-charts) referring to appropriate control limits depending on the Analytical Testing Procedure employed (*e.g.,* +/−2SD; +/−3SD; +/−MU95%), shall be regularly used to monitor method performance and inter-batch variability (when applicable).

(2) Implementation of an Internal Quality Assurance Scheme (iQAS).

(i) The Laboratory shall establish a functional and robust iQAS program, in accordance with the requirements of ISO/IEC 17025, which challenges the entire scope of the Analytical Testing process (*i.e.,* from Sample accessioning through result reporting). The Laboratory shall implement a procedure that prevents the submission of iQAS results to the Agency.

(ii) The iQAS plan shall include and evaluate as many Laboratory procedures as possible, including the submission of a sufficient number of test samples on a regular basis (*e.g.,* monthly) and shall incorporate as many categories of Prohibited Substances and Prohibited Methods as possible.

(iii) The Laboratory shall have a dedicated SOP for the iQAS program which incorporates a detailed procedure for the planning, preparation (blind or double-blind), introduction of the iQAS samples, and management of the iQAS results (*i.e.,* reviewing and follow-up of nonconformities).

(3) Mandatory participation in the Agency EQAS.

(4) Implementation of internal audits.

(i) Internal audits shall be conducted in accordance with the requirements of ISO/IEC 17025 and shall have a dedicated SOP incorporating a detailed procedure for the planning and performance of the audits, the training and selection of internal auditors, and specification of their auditing activities, as well as for management of the internal audit conclusions (*i.e.,* reviewing and follow-up of nonconformities).

(ii) Internal audit responsibilities may be shared amongst personnel provided that any Laboratory staff member does not audit his or her own area.

(iii) Internal audits shall be carried out by qualified Laboratory staff members. In addition, qualified members of the Laboratory's host organization (*e.g.,* university, institute, company) may also be included in the internal auditing teams.

(5) Implementation of external audits. Laboratories may also consider having their procedures and systems audited by other Laboratory Directors or external auditors. However, this shall not replace the performance of internal audits by the Laboratory.

Rule 6315. Results Management

(a) Review of results. The Laboratory shall conduct a minimum of one independent review of all Initial Testing Procedure raw data and results. The review process shall be recorded.

(b) A minimum of 2 Certifying Scientists shall conduct an independent review of all Adverse Analytical Findings and Atypical Findings before a test result is reported. Evidence of the review and approval of the analytical run/batch shall be recorded.

(c) Second opinion. The Laboratory may request a second opinion from another Laboratory, selected by, and upon approval of, the Agency, before reporting an Adverse Analytical Finding or Atypical Finding. Such requests for second opinions may be required by specific Technical Document(s) or Technical Letter(s), required by the Agency from certain Laboratories for all or for specific Analytical Testing Procedures under certain conditions (*e.g.,* following the recent obtaining of HEAL accreditation or after a period of

suspension or Analytical Testing Restriction), or requested at the discretion of the Laboratory (*e.g.,* for firstly detected Analytes or for difficult to interpret findings). In any case, the request for a second opinion shall be made in writing, and the second opinion received shall be recorded as part of the Sample's documentation. Any transfer of data and information necessary for the second opinion shall be made securely and respecting the confidentiality of the analytical data and any other information. The Laboratory that performed the analysis is responsible for the result and for issuing the final test report.

(d) Laboratory review of Adverse Analytical Findings and Atypical Findings. At a minimum, the review of Adverse Analytical Findings and Atypical Findings shall include:

(1) Documentation linking the Sample (as specified in the Sample collection documentation) to the Laboratory Internal Chain of Custody documentation;

(2) Laboratory Internal Chain of Custody documentation;

(3) Initial Testing Procedure(s) and Confirmation Procedure(s) analytical data and calculations;

(4) Quality control data;

(5) Completeness of technical and analytical documentation supporting the reported findings;

(6) Compliance of test data with the Analytical Testing Procedure's validation results (*e.g.,* MU); and

(7) Assessment of the existence of significant data or information that would cast doubt on or refute the Laboratory findings.

(e) When the Confirmation Procedure result(s) are not determined to be Adverse Analytical Finding(s) or Atypical Finding(s) based on the results review, the reason(s) for the rejection shall be recorded in the laboratory test report.

(f) Traceability of results and documentation. The Laboratory shall have documented procedures to ensure that it maintains a record related to each Sample analyzed. In the case of an Adverse Analytical Finding or Atypical Finding, the record shall include the data necessary to support the conclusions reported.

(1) Each step of Analytical Testing shall be traceable to the staff member who performed that step;

(2) Significant deviation from a written SOP shall be recorded;

(3) Where instrumental analyses are conducted, the operating parameters for each run shall be included as part of the record;

(4) Requests for information by the Agency to a Laboratory shall be made in writing;

(5) Laboratories are not required to produce a Laboratory Documentation Package for a Sample in which no Prohibited Substance or Prohibited Method or their Metabolite(s) or Marker(s) was detected, unless requested by an adjudication body as part of a Results Management process or Laboratory disciplinary proceedings.

(g) Confidentiality of the Analytical Data and Covered Person or Covered Horse's identity.

(1) The Laboratory shall not make any attempt to identify a Covered Person linked to, or the Covered Horse that has provided, a Sample.

(2) Information sent by a facsimile is acceptable, provided that the correct facsimile number is verified prior to transmission and the receipt is verified after the facsimile has been transmitted.

(3) Secure emails or documents shall be used for reporting or discussion of Adverse Analytical Findings or Atypical Findings if the Covered Person or Covered Horse can be identified or if any information regarding the identity of the Covered Person or Covered Horse is included.

Rule 6316. Reporting Test Results

(a) Reporting times (including confirmatory analysis).

The Laboratory should report all A Sample results to the Agency in a form designated by the Agency within 10 business days of receipt by the Laboratory of the Sample. The reporting time may be altered by agreement between the Laboratory and the Agency. The Agency shall be promptly informed of any delay in the reporting of A Sample results.

(b) Reporting requirements.

(1) The Laboratory shall record the test result for each individual Sample to, and in a form designated by, the Agency.

(2) The Laboratory shall report test results to the Agency in a form designated by the Agency. When reporting test results, the Laboratory shall include the following, in addition to the mandatory information required by the Agency, in any relevant Technical Document(s) or Technical Letter(s), and in the ISO/IEC 17025 standard:

(i) The specific gravity of the Sample, if applicable (Initial Testing Procedure and A and B Confirmation Procedures);

(ii) Relevant comments, if necessary, for proper interpretation of the test result or recommendations to the Agency (for example, for Target Testing of the Covered Horse);

(iii) Specific tests performed, in addition to the Laboratory's routine Analytical Testing menu (*e.g.,* EPO, bisphosphonates, hGH); and

(iv) Any irregularities noted on Samples.

(c) The Laboratory is not required to provide any additional test report, either in hard-copy or digital format, other than the submission of test results to, and in a form designated by, the Agency. Upon request by the Agency, the Laboratory shall report a summary of the results of analyses performed in a format specified by the Agency. In addition, the Laboratory shall provide any information requested by the Agency in relation to the Monitoring Program (Protocol).

(d) The Laboratory shall qualify the result(s) of the analysis in the Agency's test report as:

(1) Adverse Analytical Finding;

(2) Atypical Finding;

(3) Negative Finding; or

(4) Not Analyzed.

(e) Any Sample received at the Laboratory and not subject to Analytical Testing for a valid, documented reason (as instructed or agreed to by the Agency), such as Sample irregularities or intermediate Samples of a Sample Collection Session, shall be dealt with in accordance with ISO/IEC 17025.

(f) Test report for Non-Threshold Substances.

(1) A Sample test report.

(i) The Laboratory is not required to report concentrations for Non-Threshold Substances. The Laboratory shall report the actual Prohibited Substance(s) or its Metabolite(s), or Marker(s) of the Use of Prohibited Substance(s) or Prohibited Method(s) present in the Sample and in accordance with any reporting requirements established by the Agency or in any applicable Technical Document.

(ii) However, the Laboratory shall provide estimated concentrations when possible and for information purposes only, upon request by the Agency, if the detected level of the Non-Threshold Substance(s), its Metabolite(s), or Marker(s) may be relevant to the Results Management of an anti-doping case. In such instances, the Laboratory shall indicate the estimated concentration while making it clear to the Agency that the concentration was obtained by an Analytical Testing Procedure that has not been validated for quantitative purposes.

(2) B Sample test report. For Non-Threshold Substances, irrespective of whether they have a Minimum Reporting Level, the Laboratory result for the B Sample shall only establish the presence (*i.e.,* the identity) of the

Prohibited Substance(s) or its Metabolite(s) or Marker(s) in accordance with any reporting requirements established by the Agency or in relevant Technical Document(s). The Laboratory is not required to quantify or estimate the concentration of such Prohibited Substance, or its Metabolite(s) or Marker(s).

(g) Test report for Threshold Substances. For Threshold Substances, the Laboratory test report for the A Sample shall establish that the identified Prohibited Substance(s) or its Metabolite(s) or Marker(s) is present at a concentration, ratio, or score of measured analytical values greater than the Threshold, or that the Prohibited Substance(s) or its Metabolite(s) or Marker(s) is of exogenous origin.

Rule 6317. Control of Nonconformities in Analytical Testing

(a) The Laboratory shall have policies and procedures that shall be implemented when any aspect of its Analytical Testing does not comply with then-current requirements.

(b) Any nonconformities in Analytical Testing shall be recorded and kept as part of the documentation of the Sample(s) involved.

(c) When conducting a corrective action investigation, the Laboratory shall perform and record a thorough Root Cause Analysis of the nonconformity.

Rule 6318. Complaints

Complaints shall be handled in accordance with ISO/IEC 17025.

Rule 6319. Storage of Samples

(a) Storage of urine Samples. All urine Samples retained for storage in the Laboratory shall be stored frozen in a secure location under continuous Chain of Custody. The Laboratory shall keep all Chain of Custody and other records (either as hard-copy or in digital format) pertaining to those Samples unless and until notified in writing by the Agency that such records may be destroyed.

(1) Urine Sample(s) without an Adverse Analytical Finding or Atypical Finding: The Laboratory shall retain the A and B urine Sample(s) without an Adverse Analytical Finding or Atypical Finding for a minimum of 3 months after reporting the final analytical result to the Agency, and they may be discarded after this time, unless the long-term storage of the Sample(s) has been requested, in writing or electronically, by the Agency and unless the Agency requests the Laboratory retain the Sample for a longer period. The Laboratory may charge storage costs to the Agency, as applicable, for the storage of Samples for periods longer than the stated minimum storage times. However, the Laboratory may store Samples beyond the applicable minimum storage times at their own discretion and expense. In such cases, the Laboratory shall inform the Agency in writing. Any Further Analysis on these Samples will require the approval of the Agency. The maximum storage period is 10 years after the Sample collection date.

(2) Urine Samples with irregularities: The Laboratory shall retain the A and B urine Sample(s) with irregularities for a minimum of 3 months after reporting to the Agency, or for a longer period as determined by the Agency.

(3) Urine Sample(s) with an Adverse Analytical Finding or Atypical Finding: The Laboratory shall retain the A and B urine Sample(s) with an Adverse Analytical Finding or Atypical Finding for a minimum of 6 months after reporting the final analytical result for the A or the B Sample, as applicable to, the Agency and shall not dispose of any such Samples without approval by the Agency.

(4) Urine Samples under challenge, dispute or investigation: If the Laboratory has been informed by the Agency (in writing and within the applicable storage period as defined in this Rule 6319) that the analysis of a urine Sample is challenged, disputed or under investigation, the Laboratory shall retain both the A and B Samples until further notice by the Agency, as applicable.

(b) Storage of blood Samples.

(1) Samples for which Analytical Testing has been performed on blood serum/plasma fraction only (not on cellular components):

(i) All serum or plasma Samples retained for storage in the Laboratory shall be stored frozen according to established protocols in a secure location under continuous Chain of Custody. The Laboratory shall keep all Chain of Custody and other records (either as hard-copy or in digital format) pertaining to those Samples.

(ii) Serum/plasma A and B Samples without an Adverse Analytical Finding or Atypical Finding: The Laboratory shall retain the serum/plasma A and B Samples without an Adverse Analytical Finding or Atypical Finding for a minimum of 3 months after reporting the final analytical result to the Agency, unless long-term storage of the Sample(s) has been requested by the Agency or the Agency requests the Laboratory retain the Sample for a longer period.

(iii) Unless otherwise requested by the Agency, serum/plasma Samples analyzed only for TCO2 and without an Adverse Analytical Finding or Atypical Finding, shall be retained unless and until the corresponding Post-Race Sample is analyzed and no Adverse Analytical Finding or Atypical Finding is reported (*i.e.,* if the Post-Race Sample is analyzed and an Adverse Analytical Finding or Atypical Finding is reported, then the Agency may consider or conduct Further Analysis on the TCO2 Sample).

(iv) Serum/plasma Samples with irregularities: The Laboratory shall retain the serum/plasma Samples with irregularities for a minimum of 3 months after reporting the final analytical result to the Agency, or for a longer period if directed by the Agency.

(v) Plasma/serum A and B Sample(s) with an Adverse Analytical Finding or Atypical Finding: The Laboratory shall retain A and B plasma/serum Sample(s) with an Adverse Analytical Finding or Atypical Finding for a minimum of 6 months after reporting the final analytical result (for the A or the B Sample, as applicable) to the Agency and shall not dispose of any such Samples without approval by the Agency. If the B Sample Confirmation Procedure is not performed, the Laboratory may dispose of both the A and B whole blood Samples 3 months after reporting the A Sample analytical result. However, if the B Sample Confirmation Procedure is performed, then the Laboratory shall retain both the A and B whole blood Sample(s) for a minimum of 3 months after reporting the B Sample analytical result.

(vi) Plasma/serum A and B Sample(s) under challenge, dispute or investigation: If the Laboratory has been informed by the Agency (in writing and within the applicable storage period as defined in this Rule 6319) that the analysis of a serum/plasma Sample is challenged, disputed or under investigation, the Laboratory shall retain both the A and B Samples until further notice by the Agency, as applicable.

(2) Samples for which Analytical Testing has been performed on cellular fractions of whole blood.

(i) Whole blood A and B Samples without an Adverse Analytical Finding or Atypical Finding: The Laboratory shall retain the whole blood Samples without an Adverse Analytical Finding or Atypical Finding for a minimum of 1 month after reporting the final analytical result to the Agency, unless long-term storage of the Sample(s) has been requested by the Agency or the Agency requests the Laboratory retain the Sample for a longer period.

(ii) Whole blood Samples with irregularities: The Laboratory shall

retain the whole blood Samples with irregularities for a minimum of 1 month after reporting the final analytical results to the Agency, or for a longer period as requested by the Agency.

(iii) Whole blood A and B Sample(s) with an Adverse Analytical Finding or Atypical Finding: The Laboratory shall retain A and B whole blood Sample(s) with an Adverse Analytical Finding or Atypical Finding for a minimum of 3 months after reporting the final analytical result (for the A or the B Sample, as applicable) to the Agency and shall not dispose of such Samples without approval by the Agency.

(iv) Whole blood A and B Sample(s) under challenge, dispute or investigation: If the Laboratory has been informed by the Agency (in writing and within the applicable storage period as defined in this Rule 6319) that the analysis of a whole blood Sample is challenged, disputed or under investigation, the Laboratory shall retain both the A and B Samples until further notice by the Agency, as applicable, and shall not dispose of such Samples without approval by the Agency.

(c) Storage of hair Samples. All hair Samples retained for storage in the Laboratory shall be stored for as long as requested by the Agency in a secure location under continuous chain of custody.

(d) Storage of other Samples. All other Samples shall be stored for as long as requested by the Agency in optimal conditions based on the available information applicable to the Sample type, and at the direction of the Agency. They shall be stored in a secure location under continuous Chain of Custody.

(e) Long-term storage of Samples.

(1) At the direction of the Agency, any urine, serum/plasma, hair or other Sample may be stored in long-term storage after the Sample collection date for the purpose of Further Analysis, subject to the conditions set out in Rules 6313 and 6319.

(2) Sample(s) may be stored in long-term storage under the custody of either a Laboratory or another Fit-for-Purpose facility under the responsibility of the Agency. The Agency shall retain the Sample collection records pertaining to all stored Samples for the duration of Sample storage.

(3) Laboratories as Sample custodians:

(i) The Laboratory shall ensure that Samples are stored according to established protocols in a secure location in the Laboratory's permanent controlled zone and under continuous Chain of Custody. The written request from the Agency for long-term storage of Samples shall be properly documented.

(ii) Samples may also be transported for long-term storage to a specialized, secure Sample storage facility, which is located outside the Laboratory's permanent controlled zone and is under the responsibility of the Laboratory, or may be transported to another Laboratory. If the external Sample storage facility is not covered by the Laboratory's ISO/IEC 17025 accreditation, then the subcontracted external storage facility shall be Fit-for-Purpose and have its own ISO accreditation or certification (*e.g.,* 17025, 20387, 9001). The transfer of the Samples to the external long-term storage facility or Laboratory shall be recorded.

(iii) If Sample(s) are to be transported for storage at a location outside the secured area of the Laboratory that first analyzed the Sample(s), the Laboratory shall secure the A Sample(s) to be shipped either by re-sealing individual A Sample container(s) with a Tamper Evident sealing system, which has similar capabilities for security and integrity as the original sealing system, or by sealing the box in which the Sample(s) are shipped in a manner that maintains Sample integrity and Chain of Custody. For example, Sample(s) may be resealed with new resealing systems (*e.g.,* new bottlecaps) produced by the manufacturer of an appropriate Sample collection equipment that replicates the security and Tamper Evident functionality of the original seal. The resealing system of shipped A Sample(s) shall be Tamper Evident.

(iv) B Sample(s) to be shipped shall be individually sealed, either in the original, sealed B Sample container(s) or, if previously opened, by re-sealing the individual B Sample container(s) with a Tamper Evident sealing system, which has similar capabilities for security and integrity as the original sealing system.

(v) During transport and long-term storage, Sample(s) shall be stored at a temperature appropriate to maintain the integrity of the Sample(s). In any Anti-Doping Rule Violation case, the issue of the Sample's transportation or storage temperature shall be considered where failure to maintain an appropriate temperature could have caused the Adverse Analytical Finding or other result upon which the Anti-Doping Rule Violation is based.

(vi) The Laboratory shall retain all Laboratory Internal Chain of Custody and technical records (as per ISO/IEC 17025) pertaining to a stored Sample for the duration of Sample storage, either as hard-copy or in digital format. In addition, the Laboratory may retain Sample analytical data which would allow retrospective analysis of such data, for example, for the purpose of identifying signals for novel Metabolite(s) of Prohibited Substance(s) or Marker(s) of Prohibited Substance(s) or Prohibited Method(s) (*e.g.,* full-scan mass spectrometry data), as detailed in Rule 6313.

(vii) If Sample(s) are transported to another Laboratory for long-term storage, the Sample's external Chain of Custody and other non-analytical records (*e.g.,* Sample collection documentation) available to the transferring Laboratory shall also be transferred, immediately or upon later request, to the Laboratory storing the Samples or to the Agency, either as originals or copies.

(4) The Agency as Sample custodians:

(i) Sample(s) may also be transported for long-term storage to a Fit-for-Purpose, secure Sample storage facility, which is under the responsibility of the Agency. In such cases, the external storage facility shall have its own ISO accreditation or certification (*e.g.,* 17025, 20387, 9001) and shall maintain security requirements comparable to those applicable to a Laboratory. The Agency shall ensure that Samples are stored according to established protocols in a secure location under continuous Chain of Custody.

(ii) The written request from the Agency for the transfer of the Sample(s) to long-term storage shall be properly documented. The transfer of the Samples to the external long-term storage facility shall also be recorded. The Laboratory shall secure the Sample(s) for transportation to the long-term storage facility as described above.

(iii) The Laboratory shall retain all Laboratory Internal Chain of Custody and technical records (as per ISO/IEC 17025) pertaining to all Samples transferred for long-term storage for the duration of Sample storage, either as hard-copy or in digital format. In addition, the Laboratory may retain Sample analytical data which would allow retrospective analysis of such data, for example, for the purpose of identifying signals for novel Metabolite(s) of Prohibited Substance(s) or Marker(s) of Prohibited Substance(s) or Prohibited Method(s) (*e.g.,* full-scan mass spectrometry data), as detailed in Rule 6313.

(vii) If Sample(s) are transported to another Laboratory for long-term storage, the Sample's external Chain of Custody and other non-analytical records (*e.g.,* Sample collection documentation) available to the transferring Laboratory shall also be transferred, immediately or upon later request, to the Laboratory storing the Samples or to the Agency, either as originals or copies.

(4) The Agency as Sample custodians:

(i) Sample(s) may also be transported for long-term storage to a Fit-for-Purpose, secure Sample storage facility, which is under the responsibility of the Agency. In such cases, the external storage facility shall have its own ISO accreditation or certification (*e.g.,* 17025, 20387, 9001) and shall maintain security requirements comparable to those applicable to a Laboratory. The Agency shall ensure that Samples are stored according to established protocols in a secure location under continuous Chain of Custody.

(ii) The written request from the Agency for the transfer of the Sample(s) to long-term storage shall be properly documented. The transfer of the Samples to the external long-term storage facility shall also be recorded. The Laboratory shall secure the Sample(s) for transportation to the long-term storage facility as described above.

(iii) The Laboratory shall retain all Laboratory Internal Chain of Custody and technical records (as per ISO/IEC 17025) pertaining to all Samples transferred for long-term storage for the duration of Sample storage, either as hard-copy or in digital format. In addition, the Laboratory may retain Sample analytical data which would allow retrospective analysis of such data, for example, for the purpose of identifying signals for novel Metabolite(s) of Prohibited Substance(s) or Marker(s) of Prohibited Substance(s) or Prohibited Method(s) (*e.g.,* full-scan mass spectrometry data), as detailed in Rule 6313.

(f) For the purposes of this rule, ''storage'' refers to A and B Samples stored in Sample collection containers (urine collection bottles, blood collection tubes) and should not be confused with access to Aliquots, which should be accessible to analysts for the performance of Analytical Testing Procedures. However, minimum and maximum retention times apply to any

Aliquot(s) of a Sample that remains after completion of the Analytical Testing.

Rule 6320. Secondary Use or Disposal of Samples and Aliquots

(a) The Laboratory shall maintain SOP(s) pertaining to the secondary use of Samples or Aliquots for research or quality assurance, as well as for the disposal of Samples and Aliquots.

(b) If the Laboratory has discretion to dispose of a Sample, the Laboratory shall do one of the following with the Sample(s) and Aliquots as soon as practicable:

(1) Disposal of the Sample(s) and Aliquots. Disposal of Samples and Aliquots shall be recorded under the Laboratory Internal Chain of Custody.

(2) Secondary use of Samples and Aliquots for research and quality assurance. Samples and Aliquots shall be anonymized to ensure that any subsequent results cannot be traced back to a particular Covered Person or Covered Horse. Only after anonymization, may a Sample or Aliquot be used for:

(i) Anti-doping research. The Covered Person or their representative's consent is not required for these purposes.

(ii) Quality assurance, quality improvement of existing Test Methods, development or evaluation of Analytical Testing Procedures for Prohibited Substances or Prohibited Methods included in the Prohibited List at the time of Sample collection, or to establish reference population ranges or Thresholds or other statistical purposes. The Covered Person or their representative's consent is not required for these purposes.

(c) The use of Samples and Aliquots for the purposes of this Rule 6320 is subject to the following conditions:

(1) The Laboratory must respect the Protocol and the Code of Ethics requirements related to research, types of permitted research, and respect of ethical standards for research or quality assurance studies involving equine subjects;

(2) The Laboratory must not make any attempt to re-identify a Covered Person or Covered Horse from Samples or Aliquots used for the purposes of this Rule 6320 or data arising from any research or quality assurance analysis;

(3) The Laboratory must consult the applicable State and Federal regulations, guidance, or authorities to determine whether a study shall be considered as falling under Rule 6320(c)(1) or (2) (if the Laboratory is unsure whether a study can proceed without consent after consulting the foregoing sources, the Laboratory shall consult with the Agency to determine whether it can proceed); and

(4) In the event the Laboratory wishes to transfer Sample(s) or Aliquots to be used for the purposes of this Rule 6320 to another Laboratory or a third-party research institution or group, or wishes to partner with another Laboratory or research institution or group for the purpose of a study pursuant to Rule 6320(c)(1), the Laboratory shall subject the receiving party to the conditions described in this Rule 6320 by way of a written agreement and shall prohibit the receiving party from further transferring any Sample(s) or Aliquots or related data to another party.

6400. Evaluation of Laboratory EQAS

Rule 6410. Penalties

(a) The Agency shall inform a Laboratory in writing about the imposition of penalties, corrective action, or other follow-up measures.

(b) Technical or methodological error. If the Laboratory is able to remedy the technical or methodological error through the implementation of satisfactory corrective actions in a timely manner, as determined by the Agency, the Laboratory will not face any additional penalty.

(c) Clerical/Administrative error. If the Laboratory is able to remedy the clerical or administrative error through the implementation of satisfactory corrective actions in a timely manner, as determined by the Agency, the Laboratory will not face any additional penalty. For the purposes of Laboratory performance evaluation, clerical/administrative errors are defined as those incidental, non-systematic errors of no technical or methodological origin, which have been committed by the Laboratory during the performance of Analytical Testing (*e.g.,* a typographical error when manually recording an analytical result). The Laboratory shall bear no responsibility for clerical/administrative errors reflected in the Laboratory documentation made by the Agency.

Rule 6420. Corrective Action Reports

(a) A Corrective Action Report may be requested by the Agency. Where requested, it shall be submitted within the timeframe specified by the Agency in written notification about the unsatisfactory result. Failure to submit a satisfactory Corrective Action Report or the late submission of the Corrective Action Report without prior approval by the Agency may result in a penalty.

(b) A Corrective Action Report related, for example, to nonconformities detected during the Agency Laboratory assessments, or to procedural or reporting nonconformities with the Laboratory Standards, Technical Documents or Technical Letters, or unsatisfactory performance in the analysis of EQAS samples (not related to a false Adverse Analytical Finding or false Negative Finding), shall be submitted to the Agency within 30 days of the Agency's notification to the Laboratory.

(c) Unless otherwise agreed with the Agency, the corrective and preventive action(s) reported to and approved by the Agency shall be implemented immediately in the routine operations of the Laboratory.

(d) The Corrective Action Report will be reviewed by the Agency as soon as practicable. If applicable, it will establish the source of the incorrect result as either a technical/methodological error or a clerical/administrative error.

(e) Satisfactory Corrective Action Report. A Corrective Action Report will be considered as satisfactory when it meets the following criteria, as determined by the Agency:

(1) Properly and concisely identifies the root cause(s) of the nonconformity, following an appropriate investigation into all the factors that may have caused the problem (Root Cause Analysis);

(2) Leads to the documented implementation of effective corrective action(s) to solve the problem; and

(3) Leads to the documented implementation of appropriate preventive actions, if applicable, to minimize the risk of recurrence of the problem.

(f) A satisfactory Corrective Action Report shall include only the necessary supporting documentation (*e.g.,* raw analytical data, data review files, evidence of procurement of Reference Materials) which demonstrates the implemented actions described in the Corrective Action Report.

(g) Unsatisfactory Corrective Action Report. If the Laboratory's Corrective Action Report is considered unsatisfactory by the Agency, the Agency should provide feedback to the Laboratory and provide it with the opportunity to resubmit a revised Corrective Action Report within 7 days, or as otherwise agreed by the Agency.

(h) If the Laboratory is unable to submit a satisfactory revised Corrective Action Report in a timely manner, as determined by the Agency, the Agency may impose a penalty.

Rule 6430. Laboratory Self-Reporting

The Laboratory must identify and report all errors in Sample analysis resulting in a false Adverse Analytical

Finding or a false Negative Finding. Self-reporting will be taken into consideration by the Agency in determining whether or not to impose a penalty (or what that penalty will be).

Rule 6440. Evaluation of EQAS Results

(a) Satisfactory EQAS performance in a single EQAS round and over a consecutive 12-month period is necessary for maintaining HEAL accreditation. An EQAS round is a distribution of EQAS sample(s) to the Laboratories and the probationary laboratories for Analytical Testing (as defined by the Agency). The 12-month period is defined as the most recent consecutive 12-month interval starting either from the date that the Laboratory or the probationary laboratory reported the nonconforming result (EQAS or routine Analytical Testing, as applicable) to, and in a form designated by, the Agency, or from the date that the Laboratory or probationary laboratory is informed, in writing, of nonconformity by the Agency, whichever is more favorable to the Laboratory or the probationary laboratory.

(b) Unsatisfactory performance in an educational EQAS for a new or the Agency-specific Analytical Testing Procedure may prevent the Laboratory from seeking an extension of the Laboratory's scope of ISO/IEC 17025 accreditation for the Analytical Testing Procedure and from its application in routine Analytical Testing. In such circumstances, the Laboratory may only apply the new Agency-approved method or procedure for routine Sample analysis when it properly corrects the deficiencies identified in the educational EQAS (as determined by the Agency) and the method is included in the Laboratory's scope of ISO/IEC 17025 accreditation. Some Analytical Testing Procedures are not eligible for a flexible scope of ISO/IEC 17025 accreditation and require specific Agency approval before the Laboratory can apply the procedure to the analysis of Samples. Agency approval will be based on its assessment of the Fitness-for-Purpose of the Analytical Testing Procedure, method validation by the Laboratory, and the successful Laboratory participation in an inter-laboratory collaborative study or the Agency EQAS round. The Agency will communicate which Analytical Testing Procedures fall into this category to the Laboratories and to the Accreditation Bodies.

Rule 6441. EQAS Samples Containing Non-Threshold Substances

(a) When a qualitative determination of a Non-Threshold Substance has been reported, the Laboratory result will be evaluated on the basis of the correct reporting of the finding (*e.g.,* Adverse Analytical Finding, Negative Finding) as intended in the preparation of the EQAS sample.

(b) The results for any Non-Threshold Substance or its Metabolite(s) or Marker(s) at concentrations greater than (>) the MRPL (or exceeding 120% of the Minimum Reporting Level, when applicable) shall be evaluated.

(c) The results for any Non-Threshold Substance or its Metabolite(s) or Marker(s) at concentrations between 50% of the MRPL and the MRPL (or less than 120% of the Minimum Reporting Level, when applicable) may require an internal investigation and Corrective Action Report from the Laboratory.

(d) If the results for any Non-Threshold Substance or its Metabolite(s) or Marker(s) are at concentrations below (<) 50% of the applicable MRPL in an EQAS sample, the Laboratory shall report its finding(s) if the analyses are compliant with its validation data, SOPs, the Laboratory Standards, and any applicable Technical Document. Laboratories unable to report such substance(s) are encouraged, on receipt of the EQAS report, to consider re-assessment of their Analytical Testing Procedure.

Rule 6442. EQAS Samples Containing Threshold Substances

(a) For EQAS samples containing Threshold Substances at levels greater than (>) 50% of the Threshold, the quantitative determination will be statistically evaluated (*e.g.,* z-score, degree of equivalence analysis) to determine the compatibility of the reported result with the assigned value (reference, nominal or consensus value, as applicable).

(b) A Laboratory is to achieve a satisfactory statistical evaluation of quantitative results reported based on the mean of 2 replicate determinations. The overall evaluation of the quantitative performance is based on the criteria indicated in any relevant Technical Document or Technical Letter, or the Laboratory Guidelines.

(c) The main criterion applied for the evaluation of EQAS results for the quantification of Threshold Substances is the compatibility of the reported Laboratory result with the assigned value. Therefore, the incorrect reporting of an EQAS sample as a Negative Finding or as an Adverse Analytical Finding, as applicable, when the assigned value of the Threshold Substance in the EQAS sample is close to the Threshold, is not considered as a false Negative Finding or false Adverse Analytical Finding, respectively, if the absolute z-score (truncated to one decimal place) for the Laboratory's quantitative result is <3.0.

(d) Unsatisfactory quantitative result for Threshold Substances (absolute z-score ≥ 3.0). The Laboratory shall provide the Agency with a Corrective Action Report for an unsatisfactory quantitative result. The z-score is calculated according to the formula [$z = (\bar{y} - \hat{y})/\delta$], where $\bar{y}$ is the mean value of the Laboratory's replicate determinations; $\hat{y}$ is the assigned value (reference, nominal or consensus value, as applicable); δ is the target standard deviation (*e.g.,* uc_Max or robust Reproducibility sR of results from all participant Laboratories). The z-score is truncated to one decimal place.

(e) Questionable quantitative result (absolute z-score > 2.0 and < 3.0). The Laboratory shall perform an internal investigation to determine the root cause(s) of the questionable result and implement appropriate corrective measures to resolve them.

(f) EQAS evaluation of Laboratory performance. Where an EQAS result is reported incorrectly, the Laboratory shall provide the Agency with a Corrective Action Report.

(g) Double-blind, blind EQAS and educational EQAS samples. Failure to report accurately, in accordance with criteria, 3 blind or double-blind EQAS, or educational EQAS results within a continuous twelve 12-month period may result in penalties imposed by the Agency, including, but not limited to, potential suspension or revocation of HEAL accreditation, or Analytical Testing Restrictions.

Rule 6443. False Adverse Analytical Finding or False Negative Finding

(a) If the Laboratory discovers that it reported a false Adverse Analytical Finding or false Negative Finding, the Laboratory shall inform the Agency immediately.

(b) When the false Adverse Analytical Finding or false Negative Finding is identified by the Agency, through the Agency's own Results Management activities or through any other means, the Agency shall inform the Laboratory as soon as practicable.

(c) The Agency, considering the nature of the error that caused the false Adverse Analytical Finding or false Negative Finding, may impose a penalty, including, but not limited to, potential suspension or revocation of HEAL accreditation, or Analytical Testing Restrictions against the Laboratory for a particular Analytical Testing Procedure or for the analysis of a particular class of Prohibited Substances or Prohibited Methods, as

applicable, or other follow-up measures. For example, the Laboratory may be required by the Agency to analyze EQAS samples or to review the relevant analytical results and to re-analyze any relevant and available Samples previously reported as Adverse Analytical Findings during the preceding 12 months (or during a period otherwise determined by the Agency) within 7 days (unless informed otherwise by the Agency). Depending on the nature of the error that caused the false Adverse Analytical Finding or false Negative Finding, this re-analysis may be limited to one Analyte, a class of Prohibited Substances or Prohibited Methods, or may include any Prohibited Substance or Prohibited Method. A statement signed by the Laboratory Director shall record this re-analysis. The retrospective review of the analytical results and re-analysis of previous relevant Samples reported as Adverse Analytical Finding(s) shall be performed with the objective of determining whether any other related (*i.e.,* produced by the same root cause(s)) false Adverse Analytical Finding(s) have been reported by the Laboratory. The discovery of additional false Adverse Analytical Finding(s) shall lead to the implementation of corrective measures and shall be communicated to the Agency.

(1) During the period of suspension, the Laboratory shall follow the instructions provided in Rule 6561 in regard to Samples in the Laboratory's possession at the time of suspension. Alternatively, if an Analytical Testing Restriction has been imposed, the Laboratory shall subcontract the affected analyses as provided in Rules 6560 and 6302.

(2) During the suspension or Analytical Testing Restriction period, the Agency will conduct an assessment (preferably on-site) of the Laboratory, including the analysis of further EQAS samples.

(3) The suspension or Analytical Testing Restriction of the Laboratory shall be lifted only when the aforementioned conditions are satisfactorily completed, and the Laboratory provides sufficient evidence, as determined by the Agency and in the Agency's sole discretion, that appropriate steps have been taken to remedy the issue(s) that resulted in the suspension or Analytical Testing Restriction.

Rule 6450. Further Procedural Evaluations

If the Agency considers that a Corrective Action Report is unsatisfactory, and the Laboratory is not able to provide a satisfactory revised Corrective Action Report within a reasonable time frame after receiving feedback from the Agency, the Laboratory may receive a penalty, at the Agency's discretion. Rule 6450 does not apply to the evaluation of Corrective Action Reports for false Adverse Analytical Findings or false Negative Findings, which are covered in Rule 6443.

Rule 6460. Overall Laboratory Evaluation

(a) The Agency shall evaluate Laboratory EQAS performance for each EQAS round, as well as Laboratory performance for routine Analytical Testing, and assign penalties, including corrective actions or other follow-up measures, in the Agency's sole discretion.

(b) If a Laboratory under suspension as a result of EQAS performance is not capable of correcting the issue(s) before the end of the suspension period, then the Agency may extend the Laboratory's suspension for up to an additional 6 months or until such a time when the Laboratory can satisfactorily correct all the issues identified (at the Agency's discretion). If the Laboratory under suspension fails to satisfy performance criteria during an extended period of suspension (beyond the initial 6 months), then the Agency may Revoke the Laboratory's accreditation.

(c) Laboratories under an Analytical Testing Restriction remain operational (except for any activities under the Analytical Testing Restriction) and, therefore, are evaluated during the Analytical Testing Restriction as any other, fully operational Laboratory.

Rule 6470. Probationary Period and Probationary Laboratory Evaluation

(a) The probationary EQAS is a part of the initial evaluation of a probationary laboratory seeking HEAL accreditation. Successful participation in the Agency probationary EQAS is required before a probationary laboratory is eligible to be considered for full HEAL accreditation. The Agency may decide, based on its evaluation of the overall performance of the probationary laboratory, to extend the probationary period of accreditation.

(b) The Agency will evaluate probationary laboratory EQAS performance.

(c) Serious and repeated issues in the probationary EQAS shall result in the removal of the laboratory's status as a probationary laboratory by the Agency.

(d) Any false Adverse Analytical Finding or false Negative Finding of a technical or methodological nature reported automatically suspends a probationary laboratory from further consideration for HEAL accreditation.

(e) A suspended probationary laboratory wishing to re-enter the probationary EQAS is required to provide documentation of corrective and preventive action(s) no later than 30 days prior to the end of the suspension period (unless otherwise indicated by the Agency). Failure to do so will preclude the laboratory from participating in the probationary EQAS.

(f) Lifting of the suspension occurs only when proper corrective and preventive actions have been implemented and reported to the Agency. The Agency may choose, at its sole discretion, to submit additional EQAS samples to the laboratory or to require that the laboratory be reassessed, at the expense of the laboratory. Laboratories re-entering the probationary EQAS shall be considered candidate laboratories and are required to provide the applicable accreditation fee and documentation to the Agency.

Rule 6480. Removal of Samples by the Agency for Analysis or Further Analysis

(a) Within the context of an investigation or Laboratory performance monitoring activity (for example, during an on-site Agency Laboratory assessment), the Agency, initially at its expense, may remove Sample(s) from a Laboratory to conduct Further Analysis, or analysis of the Sample if the analytical results for that Sample have not yet been reported, for any purpose described in the Protocol. The Agency shall retain the right to request analysis or Further Analysis, at its expense, as permitted by the Protocol.

(b) The Agency may delegate an observer to monitor the removal of the Samples, which shall be implemented in accordance with the Agency's instructions. During the removal of Samples, the Agency shall be responsible for maintaining proper Sample Chain of Custody documentation and the safety and integrity of the Samples until receipt by the other Laboratory(-ies).

(c) The Agency may also require that the Laboratory transfer the Samples to other Laboratories selected by the Agency. In such situations, the Laboratory shall be responsible for maintaining proper Chain of Custody documentation for all transferred Samples and the safety and integrity of the Samples until receipt by the receiving Laboratory(-ies).

(d) Where for any reason (except where Rule 6312 applies), a Laboratory transfers a Sample to another Laboratory, the first Laboratory shall

send the Sample within 5 business days following receipt by the first Laboratory of the request to transfer the Sample.

(e) In connection with its monitoring of Laboratory performance, the Agency may direct Further Analysis of a Sample which has resulted in an Anti-Doping Rule Violation without consent of the Covered Person or approval from an adjudication body, as provided in the Protocol.

Rule 6490. Removal of Samples by the Agency for Laboratory Quality Assessment

The Agency may also direct the re-analysis of anonymized Samples, which have met the conditions described in Rule 6320, for purposes of Laboratory quality assurance and education, including the implementation of a system of transfer of Samples reported as Negative Findings between Laboratories. In this regard, the number of Samples directed by the Agency for re-analysis may vary.

6500. Withdrawal of HEAL Accreditation

Rule 6510. Withdrawal of HEAL Accreditation

(a) A Laboratory's HEAL accreditation may be suspended, Revoked, or subject to an Analytical Testing Restriction, whenever the Laboratory fails to comply with the Laboratory Standards, Technical Documents, or Technical Letters, or where the suspension, Revocation or Analytical Testing Restriction is otherwise required to protect the integrity of the Samples, the Analytical Testing process or the interests of the anti-doping community.

(b) The imposition of an Analytical Testing Restriction or the suspension of a Laboratory's HEAL accreditation shall not imply the automatic withdrawal of its ISO/IEC 17025 accreditation. The status of the Laboratory's ISO/IEC 17025 accreditation is to be independently assessed by the relevant accreditation body.

(c) The Agency may suspend a Laboratory's HEAL accreditation or impose an Analytical Testing Restriction against a Laboratory if the Agency identifies noncompliance with the Laboratory Standards, Technical Documents, or Technical Letters based on the Laboratory's performance during the EQAS or during routine Analytical Testing.

(d) The Laboratory may not challenge the penalty imposed by the Agency.

Rule 6520. Noncompliance With the Laboratory Standards

(a) Noncompliance with the Laboratory Standards that may lead to an Analytical Testing Restriction, suspension or Revocation of HEAL accreditation, or other follow-up measures include, but are not limited to:

(1) Suspension or withdrawal of ISO/IEC 17025 accreditation;

(2) Failure to establish or maintain administrative and operational independence as described in paragraph (b)(7) of Rule 6110;

(3) Failure to analyze the minimum number of Samples indicated in paragraph (i) of Rule 6130 (except where the Agency fails to send the minimum annual number of Samples to the Laboratory);

(4) Reporting of false Adverse Analytical Findings or false Negative Findings;

(5) Failure to implement a Technical Document or Technical Letter by the effective date without prior approval of the Agency;

(6) Failure to comply with any of the requirements or standards listed in the Laboratory Standards, Technical Documents or Technical Letters;

(7) Noncompliance with results reporting timelines in Rule 6316;

(8) Failure to take appropriate corrective action after an unsatisfactory performance during routine Analytical Testing or in a blind EQAS or double-blind EQAS round;

(9) Failure to take appropriate corrective action for Laboratory Standards, Technical Document(s), or Technical Letter(s) noncompliance(s) identified from the Agency Laboratory assessment(s);

(10) Analysis of Samples from the Agency in violation of a suspension or Analytical Testing Restriction decision;

(11) Failure to cooperate with the Agency in providing documentation or other requested information;

(12) Noncompliance with the Code of Ethics; or

(13) Any other cause that materially affects the ability of the Laboratory to ensure the full reliability and accuracy of Analytical Testing and the accurate reporting of test results.

(b) Laboratory staff or management issues which may lead to an Analytical Testing Restriction, suspension or Revocation of HEAL accreditation, or other follow-up measures include, but are not limited to:

(1) Major changes in senior Laboratory management positions (*e.g.,* Laboratory Director, Quality Manager) without proper and timely notification (usually within 30 days) to the Agency;

(2) Failure to appoint a permanent Laboratory Director or other senior management positions (*e.g.,* Quality Manager) within a reasonable time period;

(3) Failure to guarantee the competence or proper training of scientific staff including, for example, the qualification of analysts as Certifying Scientists and Laboratory Supervisory Personnel;

(4) Significant loss or lack of experienced staff (*e.g.,* Certifying Scientists) that affects, as determined by the Agency, the Laboratory's ability to ensure the full reliability and accuracy of Analytical Testing and reporting of test results;

(5) Conviction of any key personnel for any criminal offence that is determined by the Agency to impact the operations of the Laboratory;

(6) Loss of sufficient Laboratory support and resources that affects, as determined by the Agency, the quality or viability of the Laboratory; or

(7) Failure to cooperate in any Agency inquiry in relation to the activities of the Laboratory.

Rule 6530. Notification of Penalty Decision

The Agency shall provide the Laboratory with written notice of its decision regarding penalties. This notice shall state the following:

(a) That the Laboratory's HEAL accreditation has been maintained (including warnings, if applicable); or

(b) That the Laboratory's HEAL accreditation has been suspended or Revoked or that an Analytical Testing Restriction has been imposed against the Laboratory. Such notice shall include:

(1) the reason(s) for suspension, Revocation, or the imposition of an Analytical Testing Restriction;

(2) the terms of the suspension, Revocation, or Analytical Testing Restriction;

(3) the period of suspension or Analytical Testing Restriction, if applicable; and

(4) Any corrective actions or other follow-up requirements imposed upon the Laboratory by the Agency.

Rule 6540. Effective Date and Appeals

(a) A Revocation, suspension, or Analytical Testing Restriction is effective immediately upon receipt of notification of the Agency's decision.

(b) The Agency's decision is not subject to appeal.

Rule 6550. Public Notice

(a) The Agency shall publicly announce a change in a Laboratory's accreditation status (including, if appropriate, any Analytical Testing Restriction) on its website as soon as practicable after the Laboratory is notified by the Agency of its decision.

(b) The Agency's website shall be updated regarding a Laboratory's accreditation status when:

(1) the Laboratory's HEAL accreditation is reinstated following a suspension;

(2) an Analytical Testing Restriction is removed (if appropriate); or

(3) a Laboratory whose accreditation has previously been Revoked is re-accredited.

Rule 6560. Consequences of an Analytical Testing Restriction

(a) If the Agency determines that the noncompliance(s) are limited to a class of Prohibited Substances or Prohibited Methods or to a specific Analytical Testing Procedure, which are not included in the standard Analytical Testing menu requested by the Agency for Samples received by the Laboratory, the Agency may impose an Analytical Testing Restriction for that class of Prohibited Substance(s) or Prohibited Method(s) or for the specific Analytical Testing Procedure in which the noncompliance(s) occurred.

(b) If the reason for the Analytical Testing Restriction was related to the reporting of false Adverse Analytical Finding(s), all analyses employing the affected Analytical Testing Procedure(s) shall cease immediately.

(c) The Laboratory under an Analytical Testing Restriction shall contact the Agency to arrange for the transfer of the relevant Samples to subcontracted Laboratory(-ies), selected by the Agency, within 30 days of being notified of the Analytical Testing Restriction decision. All associated costs shall be borne by the Laboratory under Analytical Testing Restriction. The Laboratory shall transfer the following Samples (A and B Samples) in the Laboratory's custody, which involve the analysis of the same class of Prohibited Substances or Prohibited Methods, or the application of the affected Analytical Testing Procedure(s) subjected to the Analytical Testing Restriction, to another Laboratory(-ies) for the performance of the A and, if needed, the B Confirmation Procedures, unless otherwise instructed by the Agency:

(1) Samples which had been previously reported as an Adverse Analytical Finding (as requested by the Agency);

(2) Samples which had been opened and were undergoing analysis for the Initial Testing Procedure(s) at the time of the Analytical Testing Restriction decision;

(3) Samples for which, at the time of the Analytical Testing Restriction decision, Initial Testing Procedure(s) had been completed and had produced Presumptive Adverse Analytical Findings requiring Confirmation Procedures, and Samples that are the subject of other Confirmation Procedures;

(4) Samples for which the A or B Confirmation Procedures had been completed, but results of the analysis had not been reported by the Analytical Testing Restriction date, and Samples which were undergoing A or B Confirmation Procedures at the time of the imposition of the Analytical Testing Restriction;

(5) Samples which had been reported as Adverse Analytical Findings based on the A Confirmation Procedure prior to the imposition of the Analytical Testing Restriction. These Samples shall be kept in the Laboratory under proper Laboratory Internal Chain of Custody and appropriate storage conditions. Should a B Confirmation Procedure be requested during the period of the Analytical Testing Restriction, both A and B Samples shall be transferred to another Laboratory(-ies) selected by the Agency for the A Confirmation Procedure to be performed again and for the performance of the B Confirmation Procedure, if applicable; and

(6) If the Analytical Testing Restriction was caused by the reporting of false Negative Finding(s), and further investigation reveals that other Negative Finding(s) had been reported for Samples that are still stored in the Laboratory, the Laboratory shall inform the Agency. In such cases, both the A and B containers of the relevant Samples shall be transferred to another Laboratory(-ies) selected by the Agency for Further Analysis, as determined by the Agency. These re-analyses may be applied to the class of Prohibited Substances or Prohibited Methods or to the Analytical Testing Procedure(s) that were associated with the Negative Finding(s), as determined by the Agency.

Rule 6561. Consequences of Suspension

(a) A Laboratory whose HEAL accreditation has been suspended is ineligible to perform Analytical Testing of Samples.

(b) Suspension for violation of the Code of Ethics. If the reason for the suspension was related to a violation of the Code of Ethics, all Analytical Testing in the suspended Laboratory shall cease immediately and the Laboratory shall transfer all Samples (both the A and B Samples) in the Laboratory's custody to other Laboratory(-ies) selected by the Agency.

(c) Suspension for reporting of false Adverse Analytical Finding(s). If the reason for the suspension was related to the reporting of false Adverse Analytical Finding(s), all Analytical Testing shall cease immediately. In addition, the Laboratory shall transfer the following Samples (A and B Samples) in the Laboratory's custody to another Laboratory(-ies) selected by the Agency for the performance of the A and, if needed, the B Confirmation Procedures, unless otherwise instructed by the Agency:

(1) Samples which had been previously reported as an Adverse Analytical Finding for the same class of Prohibited Substances or Prohibited Methods when applying the same Confirmation Procedure (as requested by the Agency);

(2) Samples for which, at the time of the suspension decision, Initial Testing Procedure(s) had been completed and had produced Presumptive Adverse Analytical Findings requiring Confirmation Procedures, and Samples that are the subject of other Confirmation Procedures;

(3) Samples which had been opened and were undergoing analysis for the Initial Testing Procedure(s) at the time of the suspension;

(4) Samples which had been received at the Laboratory but had not been opened at the time of the suspension. (These Samples shall be kept sealed in the Laboratory under proper Laboratory Internal Chain of Custody and appropriate storage conditions until transfer to another Laboratory(-ies) selected by the Agency);

(5) Samples for which A or B Confirmation Procedures had been completed, but results of the analysis had not been reported by the suspension date, and Samples which were undergoing A or B Confirmation Procedures at the time of the suspension; and

(6) Samples which had been reported as Adverse Analytical Findings based on the A Confirmation Procedure prior to the suspension.

(d) Suspension for other reasons. A Laboratory that has had its HEAL accreditation suspended for reasons other than a violation of the Code of Ethics or the reporting of false Adverse Analytical Findings(s) shall take the following steps with respect to the Samples in the Laboratory's custody, unless otherwise instructed by the Agency:

(1) Samples which had been analyzed and reported as a Negative Finding, and which have either been stored in the Laboratory for a period of less than 3 months or have been placed in long-term storage upon request by the Agency shall be kept in the Laboratory

under proper Laboratory Chain of Custody and appropriate storage conditions. The Laboratory shall inform the Agency of such actions, including the provision of the Sample codes.

(2) If the suspension was caused by the reporting of false Negative Finding(s), and further investigation reveals that other Negative Finding(s) had been reported by the Laboratory, the Laboratory shall inform the Agency. In such cases, both the A and B containers of the relevant Samples shall be transferred to another Laboratory(-ies) selected by the Agency for Further Analysis, as determined by the Agency. These analyses may be applied for all the Prohibited Substances and Prohibited Methods included in the Analytical Testing menu requested by the Agency or be limited to the class of Prohibited Substances or Prohibited Methods or to the Analytical Testing Procedure(s) that were associated with the Negative Finding(s), as determined by the Agency.

(3) Samples for which Initial Testing Procedures had been completed, but results had not been reported at the time of the suspension:

(i) If the Initial Testing Procedure(s) produced Presumptive Adverse Analytical Finding(s) or other Confirmation Procedures were required, both the A and B Samples shall be transferred to another Laboratory(-ies) selected by the Agency for the performance of the A and, if needed, the B Confirmation Procedures.

(ii) In addition, if the suspension was caused by the reporting of false Negative Finding(s) and the Initial Testing Procedure(s) had produced negative results, both the A and B Samples shall also be transferred to another Laboratory(-ies) selected by the Agency for the repetition of the Initial Testing Procedure(s) and, if needed, the performance of Confirmation Procedures. These analyses may be applied for all the Prohibited Substances and Prohibited Methods included in the Analytical Testing menu requested by the Agency or be limited to the class of Prohibited Substances or Prohibited Methods or to the Analytical Testing Procedure(s) that were associated with the Negative Finding, as determined by the Agency.

(iii) If the reason for the suspension was not related to the reporting of false Negative Findings and the Initial Testing Procedures had produced negative results, the Sample(s) shall be reported to the Agency as Negative Finding(s). These Samples shall be kept in the Laboratory under proper Laboratory Internal Chain of Custody and appropriate storage conditions until further notice by the Agency. The Laboratory shall inform the Agency of such actions including the provision of the Sample codes.

(4) Samples which had been opened and were undergoing analysis for the Initial Testing Procedure(s) at the time of the suspension:

(i) If the reason for suspension was not related to the reporting of false Negative Finding(s), the Laboratory shall continue to analyze the relevant Samples until all Initial Testing Procedures are completed. If the Initial Testing Procedures produce Negative Findings, the Laboratory shall report these findings to, and in a form designated by, the Agency, and these Samples shall be kept in the Laboratory under proper Laboratory Chain of Custody and appropriate storage conditions until further notice by the Agency. The Laboratory shall inform the Agency of such actions, including the provision of the Sample codes.

(ii) However, if the Initial Testing Procedure produced a Presumptive Adverse Analytical Finding, both the A and B Samples shall be transferred to another Laboratory(-ies) selected by the Agency for the performance of the A and, if needed, the B Confirmation Procedures.

(iii) If the suspension was caused by the reporting of false Negative Finding(s), then the Laboratory shall cease all Analytical Testing and have the A and B Samples transferred to another Laboratory(-ies) selected by the Agency for the performance of the A and, if needed, the B Confirmation Procedures.

(5) Samples which had been received at the Laboratory but had not been opened yet at the time of the suspension: these Samples shall be kept sealed in the Laboratory under proper Laboratory Chain of Custody and appropriate storage conditions until transfer to another Laboratory(-ies) selected by the Agency for Analytical Testing.

(6) Samples for which A or B Confirmation Procedures had been completed, but results of analysis had not been reported by the suspension date, and Samples which were undergoing A or B Confirmation Procedures at the time of the suspension: both the A and B Samples shall be transferred to another Laboratory(-ies) selected by the Agency for the repetition of the A and, if applicable, the B Confirmation Procedures.

(7) Samples which had been reported as an Adverse Analytical Finding based on the A Confirmation Procedure prior to the suspension:

(i) These Samples shall be kept in the Laboratory under proper Laboratory Internal Chain of Custody and appropriate storage conditions. Should a B Confirmation Procedure be requested during the suspension, both A and B Samples shall be transferred to another Laboratory(-ies) selected by the Agency for the A Confirmation Procedure to be performed again and for the performance of the B Confirmation Procedure, if applicable.

(ii) During a suspension or Analytical Testing Restriction period, the Laboratory shall continue to participate in the Agency EQAS program. The Agency may require the Laboratory to analyze additional blind EQAS samples or perform a Laboratory assessment, at any time and at the expense of the Laboratory, in order to evaluate the Laboratory's status.

Rule 6562. Revocation

(a) A laboratory whose HEAL accreditation has been revoked is ineligible to perform Analytical Testing of Samples. The Laboratory Internal Chain of Custody maintained by a revoked laboratory for stored Samples is valid until such time that arrangements can be made, in consultation with the Agency, for the transfer of relevant Samples to a Laboratory(-ies) selected by the Agency.

(b) A laboratory whose HEAL accreditation has been revoked shall arrange the transfer of Samples in the laboratory's custody to a Laboratory(-ies) selected by the Agency, respectively, within 30 days of being notified of the decision revoking its HEAL accreditation. In such circumstances, the Samples to be transferred shall be selected by the Agency. The laboratory transferring the Samples shall inform the Agency and provide the relevant Sample codes and the selected Laboratory(-ies). In addition, the revoked laboratory shall assist with the transfer of the relevant Sample data and records to the Laboratory(-ies) that have been selected to receive the Samples.

(c) The revoked laboratory shall transfer all Samples in its custody for which the Analytical Testing process has not been completed at the time of the Revocation. The Agency may also choose to transfer additional Samples retained in the laboratory in accordance with paragraphs (a) through (d) of Rule 6319, or other Samples for which it is the owner pursuant to the Testing and Investigations Standards and that had been analyzed and were in long-term storage at the time of the Revocation of the laboratory's HEAL accreditation. In addition, the Agency may identify and

request that Samples be transferred to another Laboratory(-ies) selected by the Agency.

Rule 6563. Reinstatement of Suspended Accreditation or Lifting of Analytical Testing Restriction

The Agency shall lift the suspension of the Laboratory's HEAL accreditation or lift the Analytical Testing Restriction only when the Laboratory provides satisfactory evidence, as determined by the Agency in its sole discretion, that appropriate steps have been taken to remedy the noncompliance(s) that resulted in the suspension of the Laboratory's HEAL accreditation or the imposition of the Analytical Testing Restriction, and that proper measures have been implemented to satisfactorily address the condition(s) specified, if any, for reinstatement of HEAL accreditation.

Rule 6564. Extension of Suspension or Analytical Testing Restriction

(a) If a Laboratory whose HEAL accreditation has been suspended or which has been the subject of an Analytical Testing Restriction has not satisfactorily corrected the Laboratory Standards, Technical Document(s), or Technical Letter(s) noncompliance(s) that resulted in the suspension or Analytical Testing Restriction, or if the Agency identifies any additional Laboratory Standards, Technical Document(s) or Technical Letter(s) noncompliance(s) during an Agency Laboratory assessment conducted during the initial suspension or Analytical Testing Restriction period, either the suspension of the Laboratory's HEAL accreditation or the Analytical Testing Restriction may be further extended, or the Laboratory's accreditation shall be revoked, as determined by the Agency. The suspension or Analytical Testing Restriction period may be extended up to an additional 6 months, if the Laboratory provides valid explanation(s) for the delay, as determined by the Agency, in addressing the conditions to lift the suspension or Analytical Testing Restriction (including the submission of satisfactory corrective actions).

(b) If applicable, a delay in the delivery of the ISO/IEC 17025 accreditation to the Laboratory by the relevant accreditation body may also constitute grounds to extend the suspension of the Laboratory's HEAL accreditation.

(c) The decision to extend the suspension of a Laboratory's HEAL accreditation or the period of the Analytical Testing Restriction shall be made in the Agency's sole discretion.

(d) If, in accordance with the terms of the extension of the suspension of the Laboratory's HEAL accreditation or the terms of the extension of the Analytical Testing Restriction, the Laboratory provides evidence determined to be satisfactory by the Agency that all of the identified Laboratory Standards, Technical Document(s), or Technical Letter(s) noncompliance(s) have been corrected, the Laboratory's accreditation may be re-instated or the Analytical Testing Restriction may be lifted by decision of the Agency in its sole discretion.

(e) If the Laboratory has not provided evidence determined to be satisfactory by the Agency at the end of the extended suspension or extended Analytical Testing Restriction period, the Agency may Revoke the Laboratory's accreditation.

(f) The Agency will notify the Laboratory of its decision to revoke the Laboratory's HEAL accreditation in accordance with Rule 6530.

Rule 6565. Revoked Accreditation

(a) If a laboratory whose HEAL accreditation has been revoked wishes to seek a new HEAL accreditation, it must apply for HEAL accreditation as a new laboratory in accordance with Rule 6110.

(b) When seeking a new HEAL accreditation, the laboratory may request that the Agency expedite the laboratory re-accreditation procedure, which may be approved by the Agency. To do so the laboratory shall provide the Agency, as part of its application for a new accreditation, information that it considers constitutes ''exceptional circumstances'' as justification for modifying the requirements of Rule 6110 to expedite the entry of the laboratory into, or shortening the duration of, the probationary phase of accreditation. At its sole discretion, the Agency may determine whether such modifications are justified, and which steps must be followed prior to granting approval to the laboratory to enter the probationary phase of accreditation.

Rule 6570. Voluntary Cessation of Laboratory Operations

(a) A Laboratory may decide to voluntarily cease its anti-doping Analytical Testing operations on either a temporary or permanent basis, despite not having been found to have committed any analytical failures or other Laboratory Standards noncompliance(s) and not having been subject to an Analytical Testing Restriction or suspension or Revocation of its HEAL accreditation.

(b) In such circumstances, the Laboratory shall inform the Agency and provide, in writing, the reason(s) for the cessation of anti-doping Analytical Testing operations as soon as the decision is made to cease its operations and, in any event, no later than 3 months prior to the date on which its decision shall take effect. The Laboratory shall also take all necessary measures to notify all its clients of the decision to cease its operations and to arrange, in consultation with its clients, to transfer Samples to another Laboratory(-ies) selected by the Agency, in accordance with Rule 6561 (temporary closure) or Rule 6562 (permanent closure).

(c) If a Laboratory voluntarily ceases its anti-doping Analytical Testing operations on a temporary basis, the Laboratory shall maintain satisfactory performance in the analysis of EQAS samples during the period of inactivity. The period of temporary cessation of Analytical Testing activities shall not exceed 6 months, with one possible extension of up to 6 months (as determined by the Agency). If the Laboratory is unable to resume its Analytical Testing operations within a 12-month period, the Agency shall revoke the Laboratory's accreditation, unless otherwise approved by the Agency.

(d) If a Laboratory decides to cease its operations on a permanent basis, the Laboratory shall assist the Agency with the transfer of relevant Sample data and records to the Laboratory(-ies) that have been selected by the Agency to receive the Samples.

6600. Code of Ethics for Laboratories and Research and Development Activity Requirements

Rule 6610. Code of Ethics for Laboratories

(a) Compliance. Directors of Laboratories, their delegates and all Laboratory staff shall respect and comply with the Laboratory Standards and the Protocol. Laboratories and all of their staff shall maintain the confidentiality of all of data, items and information received in connection with Doping Control and Medication Control, including, but not limited to, Samples, Testing documentation, and communications with the Agency.

(b) Research in support of Doping Control.

(1) Laboratories shall participate in research programs, provided that the Laboratory Director is satisfied with their bona fide nature and the program(s) have received proper ethical approval, if applicable. The Laboratory

shall not engage in any research activity that undermines or is detrimental to the purposes of the Act.

(2) Laboratories are expected to develop a research and development program to support and expand the scientific foundation of Doping Control. This research may consist of the development of new methods or technologies, the pharmacological characterization of a new doping agent, the characterization of a masking agent or method, and other topics relevant to the field of Doping Control.

(3) Laboratories are expected to conduct research on Equine (and other animal species) subjects.

(4) Laboratories shall follow institutional animal care and use guidelines and requirements regarding the use of animal subjects in research.

(5) Covered Horses who may undergo Doping Control Testing shall not be the subjects of drug administration studies that include Prohibited Substances or Prohibited Methods.

(c) Controlled substances. Laboratories are expected to comply with the relevant and applicable local, State, and Federal laws regarding the handling, storage, and discarding of controlled or illegal substances.

(d) Analysis. Laboratories shall not engage in any analysis or activity that undermines or is detrimental to the purposes of the Act.

(e) Analytical Testing for other anti-doping organizations. Laboratories shall accept Samples for Analytical Testing only if all the following conditions have been met:

(1) The Sample matrix is of the proper type (*e.g.,* blood, urine, hair or other Samples) for the requested analyses;

(2) The Samples have been collected, sealed and transported to the Laboratory in accordance with procedures equivalent to the Testing and Investigations Standards; and

(3) The collection is a part of a legitimate anti-doping and medication control program, as determined by the Agency, or satisfies any of the conditions for Sample analysis indicated in Rule 6307.

(f) Analytical Testing for Covered Persons or those acting on their behalf. Laboratories shall not accept Samples directly from individual Covered Persons or from individuals or organizations acting on his or her behalf (unless approved in writing and in advance by the Agency and on the condition that Samples will be treated as Samples under the Protocol). Proceedings may be brought against the relevant Covered Person(s) if evidence of an Anti-Doping Rule Violation or a Controlled Medication Rule Violation emerges from such Sample analysis.

(g) Other analytical activities.

(1) Laboratories shall not provide analytical services in a Doping Control adjudication, unless specifically requested by the Agency or an adjudication body as part of a Results Management process.

(2) Laboratories shall not engage in analyzing commercial material or preparations (*e.g.,* dietary or herbal supplements), unless:

(i) Specifically requested by the Agency or an adjudication body as part of a Results Management process;

(ii) If done as part of a legitimate anti-doping research program, as determined by the Agency; or

(iii) If a request is made by a Covered Person or his or her representative, a Laboratory may conduct the analysis if agreed in advance and in writing by the Agency, which may also specify conditions that must be followed prior to or during the analysis (*e.g.,* verification of original sealed packages, product batch number).

(3) Laboratories shall not provide results, documentation or advice that, in any way, could be used as an endorsement of products or services.

(4) Analytical activities performed outside the Act will not fall under Agency-accredited status of the laboratory and shall not negatively affect the Analytical Testing of Samples from the Agency. Laboratory test reports or other documentation or correspondence related to these other analytical activities shall not declare or represent that any such testing is covered under the Laboratory's Agency-accredited status.

(h) Sharing of knowledge.

(1) When information on new doping substance(s), method(s), or practice(s) is known to a Laboratory, such information shall be shared with the Agency within 60 days. When possible, Laboratories shall share information with the Agency regarding the detection of potentially new or rarely detected doping agents as soon as possible. Immediately after having been notified of the Use of a new substance or method as a doping agent, the Agency will inform all Laboratories.

(2) The Laboratory Director or staff shall participate in developing standards for best practice and enhancing uniformity of Analytical Testing in the HEAL-accredited laboratory system.

(i) Duty to preserve the integrity of the Program contemplated in the Act and to avoid any detrimental conduct.

(1) Laboratory employees and consultants shall not engage in conduct or activities that undermine or are detrimental to the anti-doping and medication control program contemplated in the Act. Such conduct includes, but is not limited to, fraud, embezzlement, perjury, or any other conduct that might cast doubt on the integrity of the anti-doping and medication control program.

(2) Laboratory employees and consultants shall maintain the confidentiality of all of data, items and information received in connection with Doping Control and Medication Control, including, but not limited to, Samples, Testing documentation, and communications with the Agency.

(3) No employee or consultant of any Laboratory may (directly or indirectly) provide counsel, advice, or information to Covered Persons or others regarding techniques or methods used to mask or avoid detection of, alter metabolism of, or suppress excretion of a Prohibited Substance or its Metabolite(s), or Marker(s) of a Prohibited Substance or Prohibited Method in order to avoid an Adverse Analytical Finding.

(4) No employee or consultant of any Laboratory may (directly or indirectly) provide information about a Test Method to a Covered Person (or to any individual or organization acting on his or her behalf) that could be used to avoid the detection of doping. Instead, any such Covered Person (or individual or organization) will be referred to the Agency.

(5) No employee or consultant of any Laboratory may (directly or indirectly) assist a Covered Person in avoiding collection of a Sample (*e.g.,* advice on masking strategies or detection windows). However, this paragraph does not prohibit the publication or presentation of scientific research results, general presentations to educate Covered Persons, students, or others concerning anti-doping programs and Prohibited Substances or Prohibited Methods.

(6) If an employee or consultant of a Laboratory is requested to provide evidence in anti-doping proceedings, he or she is expected to provide independent, scientifically valid expert testimony.

(7) Laboratories shall not issue any statements related to their analytical processes or findings, unless otherwise provided in the Protocol or as directed by the Agency or Authority. The responsibility for evaluation of these findings with further action and publication, if considered necessary, shall be the sole responsibility of the Agency.

(j) Breach and enforceability.

(1) A failure to respect any of the provisions of this Code of Ethics may result in a Laboratory being subject to Disciplinary Proceedings instituted by the Agency to either suspend or revoke its HEAL accreditation or its Agency approval, as applicable.

(2) In addition, a failure to respect any of the provisions of this Code of Ethics may result in staff of a Laboratory being subject to disciplinary action by the Laboratory, resulting in consequences beyond those stipulated under the Laboratory Standards, including potential termination of employment or, where applicable, the imposition of criminal charges.

Rule 6620. Research and Development Activity Requirements

(a) Laboratories must receive a minimum score of 10 points annually:

(1) 5 points for each peer-reviewed manuscript;

(2) 5 points for the production of educational materials;

(3) 5 points for each funded research project;

(4) 5 points for hosting hands-on training workshop for all HEAL Laboratories; and

(5) 2 points for each Laboratory (internal) method development.

(b) The validation or implementation of established anti-doping methods with only minor adjustments, or the repetition of research previously published or presented by others, is not sufficient to be considered as a research and development activity.

7000. Arbitration Procedures

Rule 7010. Applicability

The Arbitration Procedures set forth in this Rule 7000 Series shall apply to all adjudications arising out of the Rule 3000 Series.

Rule 7020. Delegation of Duties

(a) Subject to Rule 3249, Anti-Doping Rule Violations arising out of the Rule 3000 Series and violations of Rule 3229 (together, ''EAD Violations'') shall be adjudicated by an independent arbitral body (the ''Arbitral Body'') in accordance with the Rule 3000 Series and these Arbitration Procedures. The Arbitral Body may also adjudicate any other matter referred to it under the Protocol, and any other matter that might arise from time to time under the Protocol that the Agency considers should be determined by the Arbitral Body. The Arbitral Body is selected by mutual agreement of the Authority and the Agency. The Arbitral Body will ordinarily assign a sole arbitrator to hear a case concerning an EAD Violation. However, the Arbitral Body may assign 3 arbitrators to hear a case involving an EAD Violation upon request by the Agency, based on the nature or complexity of the case.

(b) Subject to Rule 3349, Controlled Medication Rule Violations arising out of the Rule 3000 Series, violations of Rule 3329, and violations of Rule 3510 (ECM or Other Violations) shall be adjudicated by an adjudication panel (the Internal Adjudication Panel) in accordance with the Rule 3000 Series and these Arbitration Procedures. The Internal Adjudication Panel may also adjudicate any other matter referred to it under the Protocol, and any other matter that might arise from time to time under the Protocol that the Agency considers should be determined by the Internal Adjudication Panel. The Internal Adjudication panel is selected by mutual agreement of the Authority and the Agency. The Internal Adjudication Panel will ordinarily assign a single Internal Adjudication Panel member to adjudicate a case involving an ECM or Other Violation; in exceptional circumstances only, the Internal Adjudication Panel may assign 3 members to adjudicate a case upon request by the Agency.

(c) Final decisions issued by the Arbitral Body or Internal Adjudication Panel are subject to review as specified in section 3058 of the Act.

Rule 7030. Arbitral Body

(a) The Arbitral Body shall have a pool of arbitrators consisting of a minimum of 5 members appointed by mutual agreement of the Authority and the Agency.

(b) Arbitrators shall be appointed for 4-year terms. Candidate arbitrators shall complete an application in a form designated by the Authority.

(c) Candidates shall not be or have been in the previous 2 years an officer, director, trustee, employee, consultant, or official, or be in a policy making position for any Equine Constituencies or the Agency, except that this requirement does not apply to former State Racing Commission officials or employees.

(d) Candidate arbitrators shall be required to submit on request to a background check before appointment and shall commit in writing to accept appointment to all cases to which they are selected except:

(1) when they have been involved in the Provisional Hearing for the matter;

(2) when they have an actual or perceived conflict of interest; or

(3) for personal hardship (candidates shall agree not to decline appointment for personal hardship in more than 2 cases in any 12-month period, except in exceptional circumstances).

(e) If an arbitrator dies, resigns, becomes incapacitated during the arbitrator's term (legal incapacity is not required), or is removed for an ethical breach or deficiency in carrying out his or her duties, a new arbitrator shall be selected and appointed for a full 4-year term, following the procedures set forth in this Rule 7030.

Rule 7040. Internal Adjudication Panel

(a) The Internal Adjudication Panel shall consist of impartial members appointed by mutual agreement of the Authority and the Agency to hear ECM and Other Violations (''IAP members''). The Internal Adjudication Panel shall have a pool of IAP members. The Authority and the Agency may appoint as many IAP members as they consider necessary to the pool of IAP members in accordance with the Arbitration Procedures.

(b) Candidate IAP members shall be required to submit on request to a background check before appointment and shall commit in writing to accept appointment to all cases to which they are selected except:

(1) when they have been involved in the Provisional Hearing for the matter;

(2) when they have an actual or perceived conflict of interest; or

(3) for personal hardship (candidates shall agree to not decline appointment for personal hardship in more than 2 cases in any 12-month period, except in exceptional circumstances).

(c) IAP members are appointed for 4-year terms.

(d) Apart from appointment to the Internal Adjudication Panel, IAP members shall not have any business or economic interest with a party in a case.

(e) If an IAP member dies, resigns, becomes incapacitated during the IAP member's term (legal incapacity is not required), or commits an ethical breach or deficiency, the Authority or the Agency may remove the IAP member from the Internal Adjudication Panel. The Agency will publish a list of members of the Internal Adjudication Panel on its website.

(f) A person is not precluded from serving as an IAP member concomitantly with his or her service as an association or state steward, provided that doing so does not put that him or her in a position of actual or perceived conflict of interest.

Rule 7050. Training of Arbitrators and IAP Members

Arbitrators and IAP members shall receive at least 2 hours of continuing education each year on issues related to

proper and efficient handling of cases. The education must be approved by the Authority. Failure to complete this required continuing education is grounds for immediate dismissal.

Rule 7060. Initiation by the Agency

(a) EAD Violations. Unless Rule 3249 applies, if the Agency charges a Covered Person with an EAD Violation, the Agency shall initiate proceedings with the Arbitral Body. If a Covered Person is charged with both an EAD Violation and an ECM or Other Violation, the procedures for EAD Violations apply. The parties to the proceeding shall be the Agency and the Covered Person(s) charged. The Owner and the Authority shall be invited to join in the proceedings as observers and, if accepted as such, receive copies of the filings in the case. In the context of EAD Violation cases, the Owner may be permitted to intervene and make written or oral submissions.

(b) ECM and Other Violations. Unless Rule 3349 applies, if the Agency charges a Covered Person with an ECM or Other Violation, the Agency shall initiate proceedings with the Internal Adjudication Panel. The Covered Person may request a hearing before the Internal Adjudication Panel. However, the Internal Adjudication Panel may decide in its sole discretion to determine the matter based solely on the written submissions without a hearing, if the Internal Adjudication Panel considers itself sufficiently well-informed to render a decision on the written submissions alone. The parties to the proceeding shall be the Agency and the Covered Person(s) charged. The Owner and the Authority shall be invited to join in the proceedings as observers and, if accepted as such, receive copies of the filings in the case. In the context of ECM and Other Violation cases, the Owner shall not be permitted to intervene or make written or oral submissions.

(c) Only the following persons may attend hearings as the Owner of the Covered Horse, unless otherwise agreed by the hearing panel:

(1) if the Covered Horse is owned by one individual, that individual;

(2) if the Covered Horse is owned by more than one individual or by a partnership, corporation, limited liability company, syndicate, or other association or entity, either or both the Designated Owner or Managing Owner.

Rule 7070. New or Additional Charges

If after charging a Covered Person with a violation, the Agency has cause to bring any new or different charge(s) against the Covered Person, the charge shall be made in writing and filed with the other party or parties and (as applicable) the Internal Adjudication Panel or Arbitral Body. The arbitrator(s) or IAP member(s) appointed to hear the case shall decide whether the charges should be consolidated and heard in the same proceedings or whether the new or additional charge(s) should be heard separately.

Rule 7080. Expedited Procedures

(a) At the request of any party, any time period set forth in the Arbitration Procedures may be shortened by the arbitrator(s) or IAP member(s) if doing so is reasonably necessary to resolve any Covered Person's or Covered Horse's eligibility before a Covered Horserace, while continuing to protect the right of a Covered Person to a fair process.

(b) Pursuant to Rule 3262 or Rule 3362, the Agency may, in its sole discretion, shorten any deadlines within the Arbitration Procedures proportionately to ensure resolution prior to a Covered Horserace.

(c) If the Agency does not agree to the process being expedited, the arbitrator(s) or IAP member(s), as applicable, shall determine whether the adjudication process shall be expedited and the schedule pursuant to which the process shall proceed.

Rule 7090. Jurisdiction

(a) An arbitrator or IAP member shall have the authority to rule on his or her own jurisdiction, including any objections with respect to the existence, scope, or validity of the applicable rules.

(b) A party must object to the jurisdiction of the arbitrator(s) or IAP member(s) or to the arbitrability of a charge by the Agency no later than the filing of the answering statement to the charge that gives rise to the objection. The arbitrator(s) or IAP member(s) may rule on such objections as a preliminary matter or as part of the final decision, in his or her sole discretion.

Rule 7100. Consolidation

Matters involving more than one Covered Person may, in the Agency's discretion, be consolidated into a single matter. If an EAD Violation is alleged by the Agency against any of the Covered Persons who are parties in the consolidated matter, the process for EAD Violations will be followed.

Rule 7110. Location and Means of Conducting Hearings

(a) Hearings regarding EAD Violations shall take place in person, unless the arbitrator(s) order(s) the hearing (or parts thereof) to take place by use of an audio-visual teleconferencing system.

(b) Hearings regarding ECM or Other Violations shall take place by use of an audio-visual teleconferencing system, unless the IAP member(s) order(s) the hearing to take place in person.

(c) In-person hearings shall be held in the United States at a location determined by the arbitrator(s) or IAP member(s).

Rule 7120. Qualifications

Any arbitrator(s) or IAP member(s) appointed pursuant to Rule 7130 shall be subject to disqualification for the reasons specified in Rule 7140.

Rule 7130. Appointment of Hearing Panels To Adjudicate Cases

(a) The arbitrator(s) shall be appointed in the following manner: immediately after the initiation of a proceeding by the Agency as set forth in Rule 7060, the Arbitral Body shall appoint a single arbitrator or 3 arbitrators from the pool of arbitrator(s) on a rotating basis, after confirming that the arbitrator(s) will not decline the appointment due to personal hardship. The arbitrator(s) adjudicating the Provisional Hearing shall not serve as an arbitrator determining the merits of the charge against the Covered Person. The Arbitral Body shall communicate to the parties the name of the arbitrator(s) appointed to hear the matter within 3 days of initiation by the Agency.

(b) The IAP member(s) shall be appointed in the following manner: Immediately after the initiation of a proceeding by the Agency as set forth in Rule 7060, the Internal Adjudication Panel shall appoint a single IAP member (or in exceptional cases three IAP members) from the pool of IAP members on a rotating basis, after confirming that the IAP member(s) will not decline the appointment due to personal hardship. The IAP member(s) adjudicating the Provisional Hearing shall not serve as the IAP member(s) determining the merits of the charge against the Covered Person. The Internal Adjudication Panel shall communicate to the parties the name of the IAP member(s) appointed to hear the matter within 3 days of initiation by the Agency.

(c) Once appointed, the arbitrator(s) and IAP member(s) shall receive an electronic copy of the charge letter, Arbitration Procedures, Rule 3000 Series and related rule series, and the Billing Standards.

Rule 7140. Disclosure and Challenge Procedure

(a) Each arbitrator and IAP member appointed to hear a particular case shall

disclose to the parties any circumstance likely to affect his or her impartiality, including any bias or any financial or personal interest in the result of the case, or any past or present relationship with the parties or their representatives.

(b) Upon objection of a party to the continued service of an arbitrator or IAP member, the Arbitral Body or Internal Adjudication Panel (as applicable) shall determine whether the arbitrator or IAP member is evidently partial, and (if so) the arbitrator or IAP member shall be disqualified. The Arbitral Body or Internal Adjudication Panel shall inform the parties of its decision, which shall be final and not subject to review or any other challenge.

Rule 7150. Communication

Once appointed, no party and no Person acting on behalf of any party shall communicate unilaterally concerning the case with any arbitrator or IAP member appointed to hear the case. All communications with the Arbitral Body or Internal Adjudication Panel or any arbitrator or IAP member concerning the case shall include the other party or parties.

Rule 7160. Vacancies

If for any reason following assignment to the case an arbitrator or IAP member becomes unable to perform his or her duties in a particular case, the Arbitral Body or Internal Adjudication Panel (as applicable) may fill the vacancy on a rotating basis as described in these rules.

Rule 7170. Procedures for EAD Violations

(a) For matters involving an alleged EAD Violation arising from an Adverse Analytical Finding, each Covered Person's pre-hearing submission must be filed with the Arbitral Body on or before 14 days after submitting a request for a hearing (or after the deadline to make such request expires), and the Agency's pre-hearing submission must be filed with the Arbitral Body on or before 14 days after the last Covered Person's pre-hearing submission. There shall be no reply pre-hearing submission unless ordered otherwise by the arbitrator(s), but each party may present rebuttal evidence at the hearing.

(b) For matters involving an alleged EAD Violation involving a non-analytical violation or a violation of Rule 3229, the Agency's initial pre-hearing submission must be filed with the Arbitral Body on or before 14 days after the last Covered Person requests a hearing (or after the deadline to make such request expires). Each Covered Person's pre-hearing submission must be filed with the Arbitral Body on or before 14 days after the Agency's initial pre-hearing submission, and the Agency's reply pre-hearing submission must be filed with the Arbitral Body seven 7 days after the last Covered Person's pre-hearing submission.

(c) A Covered Person's pre-hearing submission shall include a brief not to exceed 30 double-spaced single-sided pages and shall include all exhibits, schedules, witness statements, expert reports, and all other evidence (except summaries and demonstrative aides) that the Covered Person intends to rely upon at the hearing. The Covered Person's pre-hearing submission shall include a designation of witnesses providing the identity of witnesses, or name of the organization (in the case of an organization representative) expected to be called to testify at the hearing, along with signed statements for each of those witnesses. For expert witnesses, the pre-hearing submission shall include a C.V. and expert report, identifying all opinions to which they will testify and the facts and scientific methods upon which those opinions are based, as well as to identify all scientific treatises, studies, or articles on which the expert relies in rendering their opinion(s), for each expert included in the witness designations.

(d) The Agency's initial pre-hearing submission shall include a brief not to exceed 30 single-sided double-spaced pages for each Covered Person charged in the case and shall include all exhibits, schedules, witness statements, expert reports, and all other evidence (except impeachment evidence, summaries, and demonstrative aides) that the Agency intends to rely upon at the hearing. The Agency's initial pre-hearing submission shall include a designation of witnesses providing the identity of witnesses, or name of the organization (in the case of an organization representative) expected to be called to testify at the hearing, along with signed statements for each of those witnesses. For expert witnesses, the initial pre-hearing submission shall include a C.V. and expert report, identifying all opinions to which the expert will testify, and the facts and scientific methods upon which those opinions are based. The submission shall identify all scientific treatises, studies, or articles on which the expert relies in rendering his or her opinion(s), for each expert included in the witness designations. The Agency's reply pre-hearing submission shall include all additional evidence upon which it intends to rely for rebuttal (except impeachment evidence, summaries, and demonstrative aides) and a reply brief not to exceed 15 single-sided double-spaced pages for each Covered Person charged in the case.

(e) Each party is responsible for updating its disclosures as such information becomes available. If a party should have submitted evidence in the party's pre-hearing submission but did not submit such evidence, the arbitrator(s) shall not admit such evidence absent a showing of good cause.

(f) The hearing should take place no more than 60 days from the date the last Covered Person requested a hearing in a particular case.

(g) At the request of any party, or at the discretion of the arbitrator(s), the arbitrator(s) may schedule, as soon as practicable, a preliminary hearing with the parties or their representatives. The preliminary hearing shall be conducted by telephone or video conference. During the preliminary hearing, the parties and the arbitrator(s) shall discuss any preliminary matters to ensure compliance with the procedures herein.

(h) Upon a showing of exceptional circumstances, the arbitrator(s) may extend any of the deadlines set forth in Rule 7170 for the minimum time necessary to address the circumstance. If all parties agree to an alternative schedule in a particular case, the arbitrator(s) shall alter dates accordingly.

(i) If any of the dates described in Rule 7170 fall on a weekend or a Federal holiday, they shall be moved to the next business day.

Rule 7180. Procedures for ECM and Other Violations

(a) Subject to paragraph (b) below, the IAP member(s) may determine to hold a hearing and require written submissions to be filed prior to the hearing, or to require written submissions and determine the matter based solely on the written submissions without a hearing. The IAP member(s) shall have wide discretion to determine the conduct of the proceedings in order to ensure that they are commensurate to the violations at issue. The IAP member(s) may issue directions to the parties as necessary. The IAP member(s) shall also have discretion to amend any time limits as they see fit in the circumstances, but any extension of deadlines shall be granted only for the minimum time necessary to address the circumstance, as all matters before the IAP member(s) shall proceed expeditiously.

(b) A person charged with a violation may request that the IAP member waive the requirement that written submissions be filed by the parties, and permit the person charged to make an

oral presentation at a hearing. The IAP member may grant the request in the interest of justice, if the conduct of the hearing will not prejudice any of the other parties. The IAP member(s) shall provide the Agency the opportunity to respond to the oral presentation and shall have wide discretion to determine the conduct and scope of the hearing. The person charged may request that he or she be assisted by legal counsel or other representative at the hearing.

(c) If the IAP member(s) order the parties to produce written submissions, and the matter involves an alleged ECM or Other Violation arising from an Adverse Analytical Finding, each Covered Person's submission must be filed with the Internal Adjudication Panel on or before 7 days after submitting a request for a hearing before the Internal Adjudication Panel (or after the deadline to make such request expires), and the Agency's submission must be filed with the Arbitral Body on or before 7 days after the last Covered Person's submission. There shall be no reply submissions unless ordered otherwise by the IAP member(s).

(d) If the IAP member(s) order the parties to produce written submissions, and the matter involves a non-analytical ECM Violation or Other Violation, the Agency's initial submission must be filed with the Internal Adjudication Panel on or before 7 days after the last Covered Person requests a hearing before the Internal Adjudication Panel (or after the deadline to make such request expires). Each Covered Person's submission must be filed with the Arbitral Body on or before 7 days after the Agency's initial submission. There shall be no reply submissions unless ordered otherwise by the IAP member(s).

(e) If the IAP member(s) order the parties to produce written submissions, the submissions of each party shall ordinarily not exceed 15 single-sided double-spaced pages and shall include all supporting documentation on which the party relies. If any party intends to call a witness or expert to testify at the hearing, a signed witness statement and expert report (as applicable) shall be filed with the written submission.

(f) If any of the dates described in Rule 7180 fall on a weekend or a Federal holiday, the date shall be moved to the next business day.

Rule 7190. Exchange of Information

Information shall be exchanged electronically, unless otherwise agreed by the parties. The arbitrator(s) and IAP member(s) are authorized to resolve any disputes concerning the exchange of information between the parties consistent with the expedited nature of the proceedings.

Rule 7200. Participation

The Arbitral Body and Internal Adjudication Panel (and their respective members) shall maintain the confidentiality of the proceedings. The arbitrator(s) or IAP member(s) may proceed without the participation of any party or representative who, after due notice, fails to be present or make a submission. If a party defaults, the arbitrator(s) or IAP member(s) may require the party who is present to submit such evidence and documents as the arbitrator(s) or IAP member(s) may require for the making of a final decision. Hearings are not open to the media or the public. However, the arbitrator(s) or IAP member(s) may permit one or more third parties to attend the hearing.

Rule 7210. Representation

Any party may be represented by legal counsel or other representative. The legal counsel or other representative shall provide a letter of representation notifying the other party and the Arbitral Body or Internal Adjudication Panel (as applicable) of his or her name, phone number, email, and mailing address. A party shall be bound by the statements made and positions taken by its legal counsel or other representative.

Rule 7220. Oaths

All testimony at hearings shall be taken under oath or affirmation.

Rule 7230. Stenographic Record

Any party desiring a stenographic record of all or a portion of the hearing shall notify the other parties of the request at least 7 days in advance of the start of the hearing, unless ordered otherwise by the arbitrator(s) or IAP member(s). The Agency shall identify the court reporter to be used for transcription services, and an electronic copy of the transcript shall be provided to the arbitrator(s) or IAP member(s) (as applicable) and to the parties. Parties are responsible for the costs of any transcript they request.

Rule 7240. Interpreters

All proceedings shall take place in English. Any party wishing to have an interpreter present during proceedings shall make all arrangements directly with the interpreter. Interpreters shall have no prior relationship with a party or have any interest in the proceeding, and the arbitrator(s) or IAP member(s) (as applicable) must approve the interpreter in advance. The costs of the interpreter shall be split between the parties. Any document that is not in English shall be officially translated by a certified translator paid for by the party offering or relying upon the document.

Rule 7250. Conduct of Hearings

(a) The Agency shall present evidence to support its charge. The Covered Person(s) charged shall then present evidence to support the Covered Person(s) defense. The Agency is then entitled to present rebuttal evidence. Witnesses for each party shall also submit to questions from the arbitrator(s) or IAP member(s) and the adverse party. The arbitrator(s) or IAP member(s) may vary this procedure, provided that the parties are treated equally and that each party has the right to be heard and is given a fair opportunity to present its case.

(b) The arbitrator(s) or IAP member(s) shall have the power to require the sequestration of any witness, other than a party or other essential person, during the testimony of any other witness. It shall be within the discretion of the arbitrator(s) or IAP member(s) to determine the propriety of the attendance of any other person other than a party and its representatives and the observers identified in Rule 7060.

(c) The arbitrator(s) or IAP member(s) may direct the order of proof, bifurcate proceedings, and direct the parties to focus their presentations on issues the decision of which could dispose of all or part of the case.

(d) The parties may agree to waive oral hearings.

Rule 7260. Evidence

(a) The parties may offer such evidence as is relevant and material to the dispute and shall produce such evidence as the arbitrator(s) or IAP member(s) may deem necessary to make a determination in a case.

(b) Prior to or during the hearing, a party may also request the arbitrator(s) or IAP member(s) to order production of any document which the party believes to be relevant and material to the dispute. The arbitrator(s) or IAP member(s) shall have discretion to grant or reject such a request as they see fit in the circumstances. However, requests for discovery and wide-ranging or otherwise disproportionate document requests shall not be permitted.

(c) The arbitrator(s) or IAP member(s) may retain an expert or seek independent evidence only if (i) agreed to by all of the parties and (ii) the parties or the Agency agree(s) to pay for the cost of such expert or independent evidence. The parties shall have the right to examine any expert retained by the

arbitrator(s) or IAP member(s) and shall have the right to respond to any independent evidence obtained by the arbitrator(s) or IAP member(s).

(d) The arbitrator(s) or IAP member(s) shall determine the admissibility, relevance, and materiality of the evidence offered, including hearsay evidence, and may exclude evidence deemed cumulative or irrelevant. Conformity to legal rules of evidence shall not be necessary, but the Federal Rules of Evidence may be used for guidance. Evidentiary and other rules for proving violations of the Protocol are also set out in Rule 3120.

(e) The arbitrator(s) or IAP member(s) shall apply relevant principles of legal privilege, including those involving the confidentiality of communications between an attorney and client and the investigative privilege.

(f) The arbitrator(s) or IAP member(s) may issue subpoenas for witnesses, documents, information, or other evidence upon the request of any party, keeping in mind the expedited nature of the proceedings and the procedures set forth in Rules 7170 and 7180. The arbitrator(s) or IAP member(s) shall not issue a subpoena for a deposition, because depositions (along with formal written discovery in civil litigation) are not in keeping with the expedited nature of the Arbitration Procedures.

Rule 7270. Inspection

If the arbitrator(s) or IAP member(s) consider it necessary to make an inspection in connection with a proceeding, the arbitrator(s) or IAP member(s) shall so advise the parties. The arbitrator(s) or IAP member(s) shall set the date and time that shall not delay the procedures in Rules 7170 and 7180 and shall notify the parties. Any party who so desires may be present at such an inspection. If one or all parties are not present at the inspection, the arbitrator(s) or IAP member(s) shall make an oral or written report to the parties and afford them an opportunity to comment.

Rule 7280. Interim Rulings and Measures

The arbitrator(s) or IAP member(s) may make interim rulings and orders and may order whatever interim measures they deem necessary to provide any party an immediate protection of rights.

Rule 7290. Provisional Hearings

Hearings to resolve challenges to Provisional Suspensions shall be held in accordance with Rule 3247 or 3347, as applicable. Hearsay evidence shall be admissible in a Provisional Hearing.

Rule 7300. Closing of Hearing

Subject to Rule 7310, the arbitrator(s) or IAP member(s) shall declare the hearing closed after the conclusion of closing arguments. Post-hearing briefs shall not be permitted, except as ordered by the arbitrator(s) or IAP members(s) in complex or otherwise exceptional cases. The time limit to issue the final decision shall commence upon the closing of the hearing.

Rule 7310. Reopening of Hearing

To avoid manifest injustice, the hearing may be reopened on the initiative of the arbitrator(s) or IAP member(s), or upon application of a party, at any time before the final decision is made. At the request of a party, the arbitrator(s) or IAP member(s) will determine if the applicable standard has been met to reopen the hearing.

Rule 7320. Waiver of Rules

Any party who proceeds with the adjudication under these rules after knowledge that any provision or requirement of these rules has not been complied with and who fails to state an objection in writing shall be deemed to have waived the right to object.

Rule 7330. Serving of Notice

(a) Any papers, notices, or process necessary or proper for the initiation or continuation of a proceeding under these rules, and any final decision made under these rules may be served by mail or email addressed to the party or its representative at the last known address or by personal service in or outside the state where the arbitration is to be held.

(b) Unless otherwise instructed by the Arbitral Body or Internal Adjudication Panel, any documents submitted by any party to the Arbitral Body or Internal Adjudication Panel shall simultaneously be provided to the other party or parties to the proceeding.

Rule 7340. Final Decision

A final decision shall be in writing and signed by the arbitrator(s) or IAP member(s). The arbitrator(s) shall issue the final decision on or before 14 days after the close of the hearing. The IAP member(s) shall issue the final decision on or before 14 days after the last written submission contemplated in Rule 7180 or after the close of the hearing (as applicable). The 14-day time limit may be extended if additional time is needed due to the complexity of the case or exceptional circumstances.

Rule 7350. Scope of Final Decision

Arbitrators and IAP members may grant any remedy or relief authorized by the Act or the Rules issued pursuant to the Act.

Rule 7360. Case Resolution During Proceedings

If the parties settle the case during the course of the proceedings in accordance with Rule 3249 or 3349, the Arbitral Body or the Internal Adjudication Panel shall issue an order terminating the proceedings.

Rule 7370. Notification of Final Decision

(a) The final decision shall be served on all parties by first class mail, email, or personal service. Interested Parties shall also be notified of the final decision.

(b) The final decision shall be Publicly Disclosed and shall not be considered confidential, unless provided otherwise in the applicable rules.

Rule 7380. Modification of Final Decision

Within 7 days of the issuance of a final decision, any party, upon notice to the other parties, may request the Arbitral Body or Internal Adjudication Panel to correct any clerical, typographical, or computational errors in the final decision. The other parties shall ordinarily be given 5 days to respond to the request.

Rule 7390. Release of Documents for Judicial Proceedings

The Arbitral Body and Internal Adjudication Panel (as applicable) shall, upon the written request of a party, furnish to the party, at the party's expense, certified copies of any papers in the Arbitral Body's or Internal Adjudication Panel's possession that may be required in judicial proceedings relating to the proceeding. If the matter is subject to review by an administrative law judge in accordance with the Act, the Arbitral Body and Internal Adjudication Panel (as applicable) shall furnish copies of any documents requested by the administrative law judge to such judge in connection with that proceeding.

Rule 7400. Right of Review

The final decision of the Arbitral Body or Internal Adjudication Panel is subject to review in accordance with section 3058 of the Act. Notwithstanding any provision set forth in these Arbitration Procedures, nothing herein shall alter the standards of review set forth in the Act.

Rule 7410. Applications to Court and Exclusion of Liability

(a) Arbitration is intended to be the exclusive remedy in all cases arising under the Rule 3000 Series, subject to appeal as described in the Rule 3000 Series and the Act.

(b) No civil action commenced by a party relating to the subject matter of the proceeding under the Arbitration Procedures shall be deemed a waiver of any party's right to adjudicate that party's case under the Arbitration Procedures.

(c) Neither the Arbitral Body nor the Internal Adjudication Panel (nor any arbitrator or IAP member) in a proceeding under these rules is a necessary party in judicial proceedings relating to that proceeding.

(d) Parties to a proceeding under the Arbitration Procedures shall be deemed to have consented that a final decision may be entered in any Federal or State court having jurisdiction, unless the party seeks review pursuant to section 3058 of the Act.

(e) None of the Authority, Agency, Arbitral Body, Internal Adjudication Panel, arbitrators, or IAP members shall be liable to any party for any act or omission in connection with any proceedings conducted under these Arbitration Procedures.

Rule 7420. Costs

(a) The Arbitral Body shall prescribe filing and other administrative fees and service charges to compensate it for the cost of providing administrative services. The fees in effect when the fee or charge is incurred shall be applicable. The Arbitral Body's filing fee and any other administrative fee or charge shall be split equally amongst the parties, and the Agency's portion shall be paid by the Authority.

(b) The Arbitral Body shall split the costs of the proceeding before an arbitrator (including arbitrator fees and expenses, but excluding attorney, witness, and party expert fees) equally amongst the parties with the Agency's portion being paid by the Authority. The Arbitral Body, in its discretion, may require advanced costs be paid by the parties to ensure payment is made.

(c) A party's failure to pay costs or advanced costs by the deadlines imposed by the Arbitral Body will, if not rectified immediately, result in a waiver of charges or defenses to charges (as applicable) and result in imposition and publication of sanctions requested by the Agency.

(d) The Authority shall be solely responsible for the administrative costs stemming from IAP member-resolved cases as described in the Arbitration Procedures.

Rule 7430. Expenses

The expenses of witnesses for any party shall be paid by the party producing such witnesses. Each party shall bear its own attorneys' fees and other expenses.

Rule 7440. Arbitrator's Compensation

(a) Arbitrators shall be compensated and reimbursed in a manner consistent with the Billing Standards.

(b) If there is disagreement concerning the terms of compensation, the disagreement shall be resolved as described in the Billing Standards.

(c) Any arrangement for the compensation or reimbursement of an arbitrator shall be made through the Arbitral Body and not directly between the parties and the arbitrator.

(d) Arbitrator fees and IAP member fees shall be paid in accordance with Rule 7420.

Rule 7450. Application of Rules

The Rule 1000–9000 Series shall be considered part of the agreement to arbitrate and in all instances the arbitrators and IAP members are required to apply the provisions of that arbitration agreement and conform to its terms.

By direction of the Commission.

Joel Christie,

Acting Secretary.

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Part III

Federal Reserve System

12 CFR Part 253
Regulations Implementing the Adjustable Interest Rate (LIBOR) Act; Final Rule

FEDERAL RESERVE SYSTEM

12 CFR Part 253

[Regulation ZZ; Docket No. R–1775]

RIN 7100–AG34

Regulations Implementing the Adjustable Interest Rate (LIBOR) Act

AGENCY: Board of Governors of the Federal Reserve System (Board).

ACTION: Final rule.

SUMMARY: The Board is adopting a final rule (final rule) to implement the Adjustable Interest Rate (LIBOR) Act. The final rule establishes benchmark replacements for contracts governed by U.S. law that reference certain tenors of U.S. dollar LIBOR (the overnight and one-, three-, six-, and 12-month tenors) and that do not have terms that provide for the use of a clearly defined and practicable replacement benchmark rate following the first London banking day after June 30, 2023. The final rule also provides additional definitions and clarifications consistent with the Adjustable Interest Rate (LIBOR) Act.

DATES: The final rule is effective February 27, 2023.

FOR FURTHER INFORMATION CONTACT: David Bowman, Senior Associate Director, 202–452–2334, Division of Monetary Affairs; Lucy Chang, Special Counsel, 202–475–6331, or Cody Gaffney, Senior Attorney, 202–452–2674, both of the Legal Division; or Lesley Chao, Lead Financial Institution Policy Analyst, 202–974–7063, Division of Supervision and Regulation. For users of TTY–TRS, please call 711 from any telephone, anywhere in the United States.

SUPPLEMENTARY INFORMATION:

I. Background

A. LIBOR

LIBOR, formerly known as the London Interbank Offered Rate, is an interest rate benchmark that was the dominant reference rate used in financial contracts in recent decades and remains in extensive use today, serving as the benchmark rate in more than $200 trillion worth of contracts worldwide.[1] While over-the-counter and exchange-traded derivatives account for the vast majority of this estimated exposure to LIBOR, LIBOR is also referenced in trillions of dollars' worth of business and consumer loans, bonds, securitizations, and nonfinancial corporate contracts.

LIBOR is intended to reflect the rate at which large banks can borrow wholesale funds on an unsecured basis. LIBOR is calculated based on submissions contributed by a panel of large, globally active banks (LIBOR panel banks). Until December 31, 2021, LIBOR's administrator calculated and published LIBOR each London business day for five currencies (USD, GBP, EUR, CHF, and JPY) and seven borrowing periods, known as tenors (overnight, one week, one month, two months, three months, six months, and twelve months).

Over the past decade, financial regulators have expressed growing concern regarding the structural vulnerabilities and robustness of LIBOR.[2] Following the financial crisis of 2007–2009, other forms of borrowing have largely replaced short-term unsecured wholesale borrowing as a source of funds for most banks, resulting in far fewer market transactions on which LIBOR panel banks can base their submissions. At the same time, weaknesses in the governance of LIBOR created the opportunity for LIBOR panel banks to manipulate LIBOR, and numerous high-profile examples of such manipulation were exposed.[3] Following these scandals, in 2013, the administration of LIBOR was transferred to a new administrator, ICE Benchmark Administration Limited (IBA), which is regulated by the U.K.'s Financial Conduct Authority (FCA).

Despite increased regulatory oversight and efforts to improve LIBOR, confidence in LIBOR continued to wane, and financial regulators and market participants began to search for alternative reference rates and develop plans for a transition away from LIBOR. In the United States, this effort has been led by the Alternative Reference Rates Committee (ARRC), a group of private-sector firms convened jointly by the Board and the Federal Reserve Bank of New York (FRBNY) in 2014.[4] Among other work, the ARRC identified the Secured Overnight Financing Rate (SOFR) as its recommended replacement for USD LIBOR and developed a Paced Transition Plan to support the transition from USD LIBOR to SOFR.[5] SOFR is a broad measure of the cost of borrowing cash overnight collateralized by U.S. Treasury securities.[6] Similar groups were convened in other jurisdictions and identified comparable risk-free rates as recommended replacements for the other LIBOR currencies.

In July 2017, following the departure of some panel banks, the FCA announced that the remaining LIBOR panel banks had voluntarily agreed to sustain LIBOR through the end of 2021 to facilitate an orderly transition away from LIBOR.[7] On March 5, 2021, the FCA announced that, after December 31, 2021, IBA would cease publishing 24 currency and tenor pairs (known as settings). The discontinued LIBOR settings included one-week and two-month USD LIBOR, as well as all EUR and CHF LIBOR tenors and most GBP and JPY LIBOR tenors.[8] However, the FCA required IBA to continue publishing, on a temporary basis, certain GBP and JPY LIBOR tenors on a ''synthetic'' basis, stating that any such synthetic LIBOR settings ''will no longer be representative of the underlying market and economic reality the setting is intended to measure.''[9]

To allow most legacy USD LIBOR contracts governed by non-U.S. law to mature without disruption, the FCA also announced that the panels for the

[1] 12 U.S.C. 5801(a)(1).

[2] *See e.g.,* Financial Stability Oversight Council, *2013 Annual Report* at 137–42.

[3] *See, e.g.,* U.S. Dep't of Justice, *Barclays Bank PLC Admits Misconduct Related to Submissions for London Interbank Offered Rate and the Euro Interbank Offered Rate and Agrees to Pay $160 Million Penalty* (June 27, 2012), *https://www.justice.gov/opa/pr/barclays-bank-plc-admits-misconduct-related-submissions-london-interbank-offered-rate-and;* U.S. Dep't of Justice, *Rabobank Admits Wrongdoing in Libor Investigation, Agrees to Pay $325 Million Criminal Penalty* (Oct. 29, 2013), *https://www.justice.gov/opa/pr/rabobank-admits-wrongdoing-libor-investigation-agrees-pay-325-million-criminal-penalty;* U.S. Dep't of Justice, *Deutsche Bank's London Subsidiary Agrees to Plead Guilty in Connection with Long-Running Manipulation of LIBOR* (Apr. 23, 2015), *https://www.justice.gov/opa/pr/deutsche-banks-london-subsidiary-agrees-plead-guilty-connection-long-running-manipulation.*

[4] *See* ARRC, *About, https://www.newyorkfed.org/arrc/about* (last visited July 7, 2022).

[5] ARRC, *The ARRC Selects a Broad Repo Rate as its Preferred Alternative Reference Rate* (June 22, 2017), *https://www.newyorkfed.org/medialibrary/microsites/arrc/files/2017/ARRC-press-release-Jun-22-2017.pdf;* ARRC, *Second Report* (Mar. 2018) at 17, *https://www.newyorkfed.org/medialibrary/Microsites/arrc/files/2018/ARRC-Second-report.*

[6] SOFR is published daily by the FRBNY in cooperation with the U.S. Department of the Treasury's Office of Financial Research. *See* Fed. Res. Bk. of New York, *Secured Overnight Financing Rate Data, https://www.newyorkfed.org/markets/reference-rates/sofr* (last visited Nov. 29, 2022). SOFR is calculated as a volume-weighted median of transaction-level tri-party repurchase agreement (repo) data collected from the Bank of New York Mellon, as well as general collateral financing repo transaction data and data on bilateral Treasury repo transactions cleared through the Fixed Income Clearing Corporation's delivery-versus-payment service, which are obtained from the U.S. Department of the Treasury's Office of Financial Research. *Id.*

[7] *See* Andrew Bailey, Chief Executive, FCA, *The Future of LIBOR* (July 27, 2017), *https://www.fca.org.uk/news/speeches/the-future-of-libor.*

[8] *See* FCA, *FCA Announcement on Future Cessation and Loss of Representativeness of the LIBOR Benchmarks* (Mar. 5, 2021), *https://www.fca.org.uk/publication/documents/future-cessation-loss-representativeness-libor-benchmarks.pdf.*

[9] *Id.*

remaining five tenors of USD LIBOR would continue through, but cease after, June 30, 2023. The FCA has proposed to require IBA to continue publishing one-, three-, or six-month USD LIBOR on a synthetic basis until the end of September 2024 (synthetic LIBOR).[10] As with synthetic GBP or JPY LIBOR settings, the FCA has announced that synthetic LIBOR settings are ''not representative of the markets that the original LIBOR settings were intended to measure.'' [11]

In response to the planned cessation of USD LIBOR, U.S. financial regulators have encouraged market participants to transition away from USD LIBOR as a reference rate as soon as practicable. For example, in November 2020, the Office of the Comptroller of the Currency (OCC), the Board, and the Federal Deposit Insurance Corporation (FDIC) issued an interagency statement stating that banking organizations generally should not enter into new contracts referencing USD LIBOR after December 31, 2021.[12] The ARRC and other private industry groups also have worked to encourage an orderly transition away from USD LIBOR. For example, as discussed further below, the International Swaps and Derivatives Association (ISDA) has developed a contractual protocol by which parties to derivative transactions governed by ISDA documentation and other financial contracts can agree to incorporate more robust contractual fallback provisions that replace references to LIBOR with an alternative benchmark based on SOFR in the event that a given LIBOR rate ceases publication or is found by the FCA to no longer be representative.[13] The ARRC has developed guiding principles for similar fallback language for cash products such as business loans, securitizations, floating rating notes, and consumer products, including specific recommended language for certain cash products.[14] ISDA's IBOR protocol and the ARRC fallback language recommendations were both subject to numerous public consultations, and they have received widespread adoption subsequent to their release.[15]

B. Legacy Contracts and the Adjustable Interest Rate (LIBOR) Act

Notwithstanding governmental and private-sector efforts to encourage market participants to prepare for the cessation of USD LIBOR, there are a significant number of existing contracts that reference USD LIBOR. Of particular concern are so-called ''tough legacy contracts,'' which are contracts that reference USD LIBOR and will not mature by June 30, 2023, but which lack adequate fallback provisions providing for a clearly defined or practicable replacement benchmark following the cessation of USD LIBOR. To address these tough legacy contracts, multiple states adopted legislation, initially proposed by the ARRC, to provide a statutory remedy for financial contracts governed by the laws of the enacting states that reference USD LIBOR, will not mature until after USD LIBOR ceases or becomes nonrepresentative, and have no effective means to replace USD LIBOR after it ceases or becomes nonrepresentative.[16] While these state laws provided a solution for a large number of tough legacy contracts, further legislative action was needed to address tough legacy contracts governed by the laws of other states.

Recognizing the need for a uniform, nationwide solution for replacing references to USD LIBOR in tough legacy contracts, on March 15, 2022, Congress enacted the Adjustable Interest Rate (LIBOR) Act (the ''LIBOR Act'') as part of the Consolidated Appropriations Act, 2022.[17] Among other things, the LIBOR Act lays out a set of default rules that apply to tough legacy contracts subject to U.S. law.

The LIBOR Act broadly distinguishes between three categories of LIBOR contracts with different types of fallback provisions. For these purposes, the LIBOR Act defines ''LIBOR contract'' broadly to include any obligation or asset that, by its terms, uses the overnight, one-month, three-month, six-month, or 12-month tenors of USD LIBOR as a benchmark.[18] Consistent with this definition, the final rule and the remainder of the discussion will focus on these stated tenors of USD LIBOR only. The LIBOR Act defines ''fallback provisions'' to mean the terms in a LIBOR contract for determining a benchmark replacement, including any terms relating to the date on which the benchmark replacement becomes effective.[19]

The first category of LIBOR contracts encompasses contracts that contain fallback provisions identifying a specific benchmark replacement that is not based in any way on any USD LIBOR values (except to account for the difference between LIBOR and the benchmark replacement) and that do not require any person (other than a benchmark administrator) to conduct a poll, survey, or inquiries for quotes or information concerning interbank lending or deposit rates.[20] These LIBOR

[10] *See* FCA, *Further Consultation and Announcements on the Wind-down of LIBOR* (Nov. 23, 2022), *https://www.fca.org.uk/news/news-stories/further-consultation-announcements-wind-down-libor* (discussing further consultation on synthetic LIBOR, *https://www.fca.org.uk/publication/consultation/cp22-21.pdf*).

[11] *See* FCA, Consultation on 'Synthetic' US Dollar LIBOR and Feedback to CP22/11 ¶ 1.7 (Nov. 2022), *https://www.fca.org.uk/publication/consultation/cp22-21.pdf; see also* FCA, *FCA Announcement on Future Cessation and Loss of Representativeness of the LIBOR Benchmarks* (Mar. 5, 2021), *https://www.fca.org.uk/publication/documents/future-cessation-loss-representativeness-libor-benchmarks.pdf.*

[12] *See* Board, FDIC, OCC, *Statement on LIBOR Transition* (Nov. 30, 2020), *https://www.federalreserve.gov/supervisionreg/srletters/SR2027a1.pdf.*

[13] ISDA, ISDA 2020 IBOR Fallbacks Protocol, *https://www.isda.org/protocol/isda-2020-ibor-fallbacks-protocol/.*

[14] *See, e.g.,* ARRC, *ARRC Guiding Principles for More Robust LIBOR Fallback Contract Language in Cash Products* (July 9, 2018), *https://www.newyorkfed.org/medialibrary/Microsites/arrc/files/2018/ARRC-principles-July2018;* ARRC, *Summary of ARRC's LIBOR Fallback Language* (Nov. 15, 2019), *https://www.newyorkfed.org/medialibrary/Microsites/arrc/files/2019/LIBOR_Fallback_Language_Summary;* ARRC, *ARRC Recommendations Regarding More Robust Fallback Language for New Issuance of LIBOR Securitizations* (May 31, 2019), *https://www.newyorkfed.org/medialibrary/Microsites/arrc/files/2019/Securitization_Fallback_Language.pdf;* ARRC, *ARRC Recommendations Regarding More Robust LIBOR Fallback Contract Language for New Closed-End, Residential Adjustable Rate Mortgages* (Nov. 15, 2019), *https://www.newyorkfed.org/medialibrary/Microsites/arrc/files/2019/ARM_Fallback_Language.pdf.*

[15] *See, e.g.,* ISDA, *ISDA 20202 IBOR Fallbacks Protocol—List of Adhering Parties, https://www.isda.org/protocol/isda-2020-ibor-fallbacks-protocol/adhering-parties* (last visited Nov. 29, 2022). The U.S. Department of Justice (DOJ) also reviewed ISDA's IBOR protocol, concluded that it is unlikely to harm competition, and stated that the DOJ would not challenge ISDA's IBOR protocol under federal antitrust laws. *See* DOJ, *Justice Department Issues Favorable Business Review Letter to ISDA for Proposed Amendments to Address Interest Rate Benchmarks* (Oct. 1, 2020), *https://www.justice.gov/opa/pr/justice-department-issues-favorable-business-review-letter-isda-proposed-amendments-address.*

[16] *See, e.g.,* N.Y. Gen. Oblig. Law art. 18–C; Ala. Code tit. 5, ch. 28; Fla. Stat. 687.15; Tenn. Code Ann. sec. 47–33–101 *et seq.;* Ind. Code 28–10–2; Neb. Rev. Stat. 8–3101 *et seq.*

[17] Public Law 117–103, div. U, codified at 12 U.S.C. 5801 *et seq.*

[18] *See* 12 U.S.C. 5802(16) (definition of ''LIBOR contract''), 5802(15) (definition of ''LIBOR''). The LIBOR Act does not apply to contracts that use the one-week or two-month tenors of USD LIBOR as a benchmark. *Id.* The LIBOR Act defines ''benchmark'' to mean an index of interest rates or dividend rates that is used, in whole or in part, as the basis of or as a reference for calculating or determining any valuation, payment, or other measurement. 12 U.S.C. 5802(1).

[19] 12 U.S.C. 5802(11). The LIBOR Act defines ''benchmark replacement'' to mean a benchmark, or an interest rate or dividend rate (which may or may not be based in whole or in part on a prior setting of LIBOR), to replace LIBOR or any interest rate or dividend rate based on LIBOR, whether on a temporary, permanent, or indefinite basis, under or with respect to a LIBOR contract. 12 U.S.C. 5802(3).

[20] *See* 12 U.S.C. 5803(b). The LIBOR Act defines ''benchmark administrator'' to mean a person that

Continued

contracts generally can be expected to transition to the contractually agreed-upon benchmark replacement as provided by their fallback provisions on or before the LIBOR replacement date—the first London banking day after June 30, 2023 (unless the Board determines that any LIBOR tenor will cease to be published or cease to be representative on a different date).[21]

The second category of LIBOR contracts encompasses (i) contracts that contain no fallback provisions, as well as (ii) LIBOR contracts with fallback provisions that do not identify a determining person (as described below) and that only (A) identify a benchmark replacement that is based in any way on USD LIBOR values (except to account for the difference between LIBOR and the benchmark replacement) or (B) require that a person (other than a benchmark administrator) conduct a poll, survey, or inquiries for quotes or information concerning interbank lending or deposit rates.[22] For this second category of LIBOR contracts, the LIBOR Act provides that the benchmark replacement on the LIBOR replacement date will be the Board-selected benchmark replacement identified by the Board, which must be based on SOFR and include the tenor spread adjustments required under the LIBOR Act.[23] Thus, any references to USD LIBOR in LIBOR contracts in this second category will, by operation of law, be replaced by the Board-selected benchmark replacement on the LIBOR replacement date.

For contracts that fall into this second category, the LIBOR Act provides a series of statutory protections, including that no person shall be subject to any claim or cause of action in law or equity or request for equitable relief, or have liability for damages, arising out of the use of the Board-selected benchmark replacement as a benchmark replacement.[24] These statutory provisions are described in more detail below.

The third category of LIBOR contracts encompasses LIBOR contracts that contain fallback provisions authorizing a determining person to determine a benchmark replacement.[25] The application of the LIBOR Act to LIBOR contracts in this third category depends on the determination, if any, made by the determining person. Where a determining person does not select a benchmark replacement by the LIBOR replacement date or the latest date for selecting a benchmark replacement according to the terms of the LIBOR contract (whichever is earlier), the LIBOR Act provides that the benchmark replacement for such LIBOR contract will be, by operation of law, the Board-selected benchmark replacement on and after the LIBOR replacement date.[26] Where a determining person selects the Board-selected benchmark replacement as the benchmark replacement, the LIBOR Act provides that such selection shall be (i) irrevocable, (ii) made by the earlier of the LIBOR replacement date and the latest date for selecting a benchmark replacement according to the terms of the LIBOR contract, and (iii) used in any determinations of the benchmark under or with respect to the LIBOR contract occurring on and after the LIBOR replacement date.[27]

Although the LIBOR Act does not require a determining person to select the Board-selected benchmark replacement as the benchmark replacement for a LIBOR contract, the statute provides a series of statutory protections for any determining person who does so, including that a determining person generally shall not be subject to any claim or cause of action in law or equity or request for equitable relief, or have liability for damages, arising out of the selection of the Board-selected benchmark replacement as a benchmark replacement.[28]

Where the Board-selected benchmark replacement becomes the benchmark replacement for a LIBOR contract (either by operation of law or through the selection of a determining person), the LIBOR Act contemplates that certain conforming changes to a LIBOR contract may be necessary to facilitate the transition from USD LIBOR to the Board-selected benchmark replacement. These ''benchmark replacement conforming changes'' may arise in one of two ways. First, the LIBOR Act authorizes the Board to determine benchmark replacement conforming changes that, in its discretion, would address one or more issues affecting the implementation, administration, and calculation of the Board-selected benchmark replacement in LIBOR contracts.[29] Second, for a LIBOR contract that is not a consumer loan, a calculating person may, in its reasonable judgment, determine that benchmark replacement conforming changes are otherwise necessary or appropriate to permit the implementation, administration, and calculation of the Board-selected benchmark replacement under or with respect to a LIBOR contract after giving due consideration to any benchmark replacement conforming changes determined by the Board.[30] For this purpose, the LIBOR Act defines ''calculating person'' to mean, with respect to any LIBOR contract, any person, including the determining person, responsible for calculating or determining any valuation, payment, or other measurement based on a benchmark.[31]

The LIBOR Act provides that all benchmark replacement conforming changes (whether determined by the Board or, if applicable, a calculating person) shall become an integral part of the LIBOR contract, and a calculating person shall not be required to obtain consent from any other person prior to the adoption of benchmark replacement conforming changes.[32] In addition, the determination, implementation, and performance of benchmark replacement conforming changes are generally subject to certain statutory protections provided by the LIBOR Act, which are designed to ensure continuity of contract.[33] Finally, where a calculating person implements or (in the case of a LIBOR contract that is not a consumer loan) determines benchmark replacement conforming changes, the LIBOR Act provides that the calculating person shall not be subject to any claim

publishes a benchmark for use by third parties. 12 U.S.C. 5802(2).

[21] 12 U.S.C. 5803(f)(2); *see also* 12 U.S.C. 5802(17) (definition of ''LIBOR replacement date''). The Board has not determined, and does not expect to determine, a LIBOR replacement date earlier than the first London banking day after June 30, 2023.

[22] The LIBOR Act deems these types of fallback provisions to be null and void by operation of law. 12 U.S.C. 5803(b). To the extent a LIBOR contract contains fallback provisions that would be applied ahead of another, separate benchmark replacement, then under the LIBOR Act, these fallback provisions would be disregarded and the separate benchmark replacement would apply.

[23] 12 U.S.C. 5803(a)–(b); *see also* 12 U.S.C. 5802(6) (definition of ''Board-selected benchmark replacement'').

[24] 12 U.S.C. 5804(a)–(b), (c)(1), (d).

[25] The LIBOR Act defines ''determining person'' to mean, with respect to any LIBOR contract, any person with the authority, right, or obligation, including on a temporary basis (as identified by the LIBOR contract or by the governing law of the LIBOR contract, as appropriate) to determine a benchmark replacement. 12 U.S.C. 5802(10).

[26] 12 U.S.C. 5803(c)(3).

[27] 12 U.S.C. 5803(c)(2).

[28] 12 U.S.C. 5804(c)(1)–(2), 5804(a)–(d). This statutory safe harbor also applies to the use of the Board-selected benchmark replacement other than at the selection of a determining person.

[29] 12 U.S.C. 5802(4)(A).

[30] 12 U.S.C. 5802(4)(B). The LIBOR Act defines ''consumer loan'' to mean a consumer credit transaction, which is defined by cross-reference to the Truth in Lending Act. 12 U.S.C. 5802(9) (definition of ''consumer loan); 5802(8) (definitions of ''consumer'' and ''credit'').

[31] 12 U.S.C. 5802(7).

[32] 12 U.S.C. 5803(d).

[33] *See* 12 U.S.C. 5804(a)–(d).

or cause of action in law or equity or request for equitable relief, or have liability for damages.[34]

The LIBOR Act includes various other provisions beyond the main operative provisions and statutory protections described above. For example, the LIBOR Act generally provides that a bank may use any benchmark (including a benchmark that is not SOFR) in any non-IBOR loan made before, on, or after the date of enactment of the LIBOR Act that the bank determines to be appropriate, and that no Federal supervisory agency may take enforcement or supervisory action against the bank solely because that benchmark is not SOFR.[35] Other provisions of the LIBOR Act amend the Trust Indenture Act of 1939 (15 U.S.C. 77ppp(b)) and the Higher Education Act of 1965 (20 U.S.C. 1087–1(b)(2)(I)), respectively, to facilitate the transition from USD LIBOR.[36] Finally, the LIBOR Act expressly preempts any provision of State or local law relating to the selection or use of a benchmark replacement or related conforming changes, or expressly limiting the manner of calculating interest (including the compounding of interest) as that provision applies to the selection or use of a Board-selected benchmark replacement or benchmark replacement conforming changes.[37]

In July 2022, the Board invited public comment on a notice of proposed rulemaking (proposed rule) to implement the LIBOR Act.[38] The comment period ended on August 29, 2022.

II. Overview of the Final Rule

As required by the LIBOR Act, the Board's final rule identifies SOFR-based Board-selected benchmark replacements for LIBOR contracts that will not mature prior to the LIBOR replacement date and do not contain clear and practicable benchmark replacements. The final rule identifies different SOFR-based Board-selected benchmark replacements for different categories of LIBOR contracts. In addition, the final rule identifies certain benchmark replacement conforming changes related to the implementation, administration, and calculation of the Board-selected benchmark replacement. Consistent with the LIBOR Act, the final rule also expressly indicates that a determining person may select the Board-selected benchmark replacement for the relevant type of LIBOR contract, with any applicable benchmark replacement conforming changes. In addition, the final rule expressly provides that the LIBOR Act's protections related to the selection or use of the Board-selected benchmark replacement shall apply to any LIBOR contract for which the Board-selected benchmark replacement becomes the benchmark replacement (whether by operation of law or by the selection of a determining person). Finally, the final rule indicates that, under the LIBOR Act, the Board's final rule preempts any state or local law or standard relating to the selection or use of a benchmark replacement or conforming changes.

III. Summary of Public Comments

The Board received 29 comment letters in response to the proposed rule.[39] Commenters included eight banks and banking trade associations; six other trade associations; four government-sponsored enterprises; four consultants and researchers; three individuals; one government agency; one consortium of consumer groups; and two anonymous comments.

Ten of these comment letters included an explicit statement of support for the proposal. One commenter opposed the proposal based on disagreement with the policy objectives of the LIBOR Act.[40] The LIBOR Act is federal law, and the Board is required to implement the LIBOR Act consistent with the stated policy objectives of Congress. As described below, the Board's discretion under the LIBOR Act is limited to identifying SOFR-based Board selected benchmark replacements for LIBOR contracts subject to the act, plus a few other narrow areas.

Most of the remaining commenters provided feedback on various topics related to the proposal (including the proposed Board-selected benchmark replacements for specific categories of contracts, synthetic LIBOR, conforming changes, and certain protections expressly provided by the LIBOR Act), but did not express support or opposition for the overall proposal. Feedback from commenters related to particular aspects of the proposal is discussed, as applicable, in section IV.

One commenter provided feedback on the Board's analysis of the proposed rule under the Regulatory Flexibility Act. This comment is discussed in more detail in section V.

Finally, a commenter requested that the prudential regulators engage in specific efforts to educate banks, consumers, other issuers of financial products, and impacted industry groups, potentially through partnerships with industry groups and capital market participants, on (i) the need to transition away from LIBOR to viable alternative rates like SOFR, and (ii) the likely impact such transition would have on financial instruments that currently reference LIBOR. As previously discussed, U.S. financial regulators have encouraged banks and market participants over the past several years to transition away from USD LIBOR as a reference rate as soon as practicable, including through issuance of an interagency statement.[41] In addition, the ARRC and third parties such as ISDA have engaged in significant efforts to facilitate and to educate parties on the transition away from LIBOR as LIBOR's cessation grows closer. Based on these and other industry efforts, the Board believes that ample information is available concerning the transition away from LIBOR.

IV. Section-by-Section Analysis

A. Section 253.1—Authority, Purpose, and Scope

Section 253.1 of the final rule sets forth the authority for, purpose of, and scope of the final rule. Significantly, and consistent with the statute as described above, the final rule does not apply to (i) contracts that do not reference the overnight or one-, three-, six-, or 12-month tenors of LIBOR or (ii) LIBOR contracts that have fallback provisions providing for the use of a clearly defined and practicable replacement benchmark for LIBOR (including LIBOR contracts where the determining person selects a benchmark replacement other than the Board-selected benchmark replacement), except as provided in § 253.3(a)(1)(iii) and (c), which is discussed further

[34] 12 U.S.C. 5804(c).

[35] 12 U.S.C. 5805.

[36] LIBOR Act sections 108–09, codified at 15 U.S.C. 77ppp(b) and 20 U.S.C. 1087–1(b)(2)(I).

[37] 12 U.S.C. 5806.

[38] 87 FR 45268 (July 28, 2022).

[39] Two of these commenters submitted additional comment letters that supplemented their original comment letters; these supplemental comment letters have not been included in the count of 29 comment letters. In addition, the count of 29 comment letters does not include two comment letters submitted to the Board that addressed topics unrelated to the LIBOR Act.

[40] This commenter referenced the manipulation of LIBOR by panel banks and indicated that the identification of Board-selected benchmark replacements under the LIBOR Act and proposal would be most likely to benefit banks rather than certain individuals who may not be able directly to obtain LIBOR-based financing. The commenter further criticized the proposal for failing to address various social issues outside the scope of the LIBOR Act, including ethics standards and climate change effects.

[41] *See, e.g.,* Board, FDIC, OCC, *Statement on LIBOR Transition* (Nov. 30, 2020), *https://www.federalreserve.gov/supervisionreg/srletters/SR2027a1.pdf.*

below.[42] The proposed rule included a similar provision that received a small number of comments.[43] Section 253.1 also clarifies that any determining person's selection of the applicable Board-selected benchmark replacement is subject to §§ 253.4 (identifying Board-selected benchmark replacements for specific categories of LIBOR contracts), 253.5 (concerning benchmark replacement conforming changes), 253.6 (concerning preemption), and 253.7 (concerning statutory protections for the selection or use of the Board-selected benchmark replacement). The rule also applies only to existing contracts governed by federal law or the law of any state. In addition, consistent with the LIBOR Act, § 253.1 states that the parties to a LIBOR contract may, by written agreement, specify that a LIBOR contract shall not be subject to the rule.[44]

B. Section 253.2—Definitions

Section 253.2 provides definitions for many of the terms used in the rule. As with the proposal, most of the defined terms in § 253.2 are substantially the same as the defined terms in the LIBOR Act. However, § 253.2 includes additional definitions for the terms ''30-day Average SOFR,'' ''90-day Average SOFR,'' ''CME Term SOFR,'' ''derivative transaction,'' ''derivative transaction fallback observation day,'' ''Federal Housing Finance Agency (FHFA)-regulated entity,'' ''Federal Family Education Loan Program (FFELP) Asset-Backed Securitization (ABS),'' ''FHFA-regulated-entity contract,'' ''ISDA protocol,'' and ''relevant benchmark administrator,'' each of which is discussed below in connection with their use in § 253.4 or § 253.5, as applicable.[45] For ease of reference, the ISDA protocol in its entirety is republished in appendix A of the final rule.

Definition of ''determining person.'' Several commenters requested that the term ''determining person'' be defined to include persons with the right to select a replacement benchmark even if that right would vest only in the future or is subject to some contingency. The definition of ''determining person'' in section 103(10) of the LIBOR Act does not specify whether a determining person must have a *current* authority, right, or obligation to determine a benchmark replacement, or whether a person with a *contingent* authority, right, or obligation to determine a benchmark replacement also is a determining person.

The final rule clarifies this statutory ambiguity by defining the term ''determining person'' to include any person with the authority, right, or obligation, including on a temporary basis (as identified by the LIBOR contract or by the governing law of the LIBOR contract, as appropriate) to determine a benchmark replacement, whether or not the person's authority, right, or obligation is subject to any contingencies specified in the LIBOR contract or by the governing law of the LIBOR contract. The Board believes that this clarification is consistent with Congressional intent and will promote a smooth transition away from LIBOR for contracts that authorize a person to select a benchmark replacement when LIBOR becomes unavailable or non-representative. Under the final rule, such a person will qualify as a determining person before LIBOR becomes unavailable or non-representative, and therefore will have a statutory right under section 104(c)(1) and (c)(2) of the LIBOR Act to select the Board-selected benchmark replacement by the earlier of (i) the LIBOR replacement date and (ii) the latest date for selecting a benchmark replacement according to the terms of the LIBOR contract.[46]

The Board notes that, if the term ''determining person'' were interpreted to be limited only to persons with a *current* authority, right, or obligation to select a benchmark replacement, then, under certain LIBOR contracts, a person with a right to select a benchmark replacement when LIBOR becomes unavailable or non-representative would not become a determining person until the LIBOR replacement date—when LIBOR will *actually* become unavailable or non-representative. Accordingly, that person would need to wait until the LIBOR replacement date to exercise the statutory right under section 104(c)(1) and (c)(2) of the LIBOR Act to select the Board-selected benchmark replacement. The Board believes that this outcome—and the market disruption that would likely result from determining persons not selecting a benchmark replacement until the LIBOR replacement date—would be inconsistent with the Congressional intent to facilitate a smooth transition away from LIBOR and avoid disruptive litigation.

A commenter also requested that the final rule clarify that a ''determining person'' must have *sole* authority to decide a benchmark replacement and would not include a person who is required under the LIBOR contract to collaborate with other persons. The final rule clarifies that the term ''determining person'' refers to a person with sole authority, right, or obligation, including on a temporary basis, to determine a benchmark replacement. Particularly when considered in the context of the various protections provided by the LIBOR Act with respect to a determining person's selection of the Board-selected benchmark replacement, the most sensible interpretation is that such a selection would be made by only one person, rather than some group.[47]

Finally, as requested by a commenter, the Board hereby clarifies that a determining person selecting a Board-selected benchmark replacement pursuant to the authority and statutory protections of the LIBOR Act must choose the Board-selected benchmark replacement identified in § 253.4 for that contract type.

C. Section 253.3—Applicability

Section 253.3 addresses the applicability of the regulation to LIBOR contracts. Specifically, for the following LIBOR contracts, the applicable Board-selected benchmark replacement indicated in § 253.4 of the final rule shall be the benchmark replacement for the contract on and after the LIBOR replacement date unless an express exception applies: (i) LIBOR contracts that contain no fallback provisions; (ii) LIBOR contracts that contain fallback

[42] 12 U.S.C. 5803(f)(2)–(3). However, consistent with the LIBOR Act, the final rule applies to LIBOR contracts that identify a determining person if the determining person has not selected a benchmark replacement by the earlier of (i) the LIBOR replacement date and (ii) the latest date for selecting a benchmark replacement according to the terms of the contract. *See* section 253.3(a)(1)(iii). In addition, the final rule mirrors provisions in the LIBOR Act related to any selection by a determining person of the Board-selected benchmark replacement. *See* section 253.3(c).

[43] Some commenters indicated that the proposed rule did not match the precise language of the LIBOR Act with respect to LIBOR contracts subject to the statute. These comments are discussed in more detail in section IV.C.

[44] *See* 12 U.S.C. 5803(f)(1).

[45] One commenter indicated that some mortgage contracts may include provisions referencing a LIBOR ''index'' which the commenter believed should be interpreted to mean 12-month LIBOR based on ''common use of the term 'index.' '' That commenter suggested defining the term by regulation, since mortgage lenders otherwise may seek to broaden that definition. The LIBOR Act applies on an individual contract basis and looks to the particular provisions and definitions of that contract to evaluate whether the LIBOR Act applies. The final rule similarly applies to contracts on an individual basis, following evaluation of that contract's provisions. As a result, the Board does not believe it would be reasonable to adopt one definition of ''index''. However, the Board observes that the final rule, consistent with the LIBOR Act, replaces the specific tenor of LIBOR referenced in the LIBOR contract with a corresponding Board-selected benchmark replacement that incorporates the applicable tenor spread adjustment specified by the LIBOR Act.

[46] *See* 12 U.S.C. 5803(c)(1)–(2).

[47] *See, e.g.,* 12 U.S.C. 5803(c), 5804(c).

provisions that identify neither a specific benchmark replacement nor a determining person; and (iii) LIBOR contracts that contain fallback provisions that identify a determining person, but where the determining person has not selected a benchmark replacement by the earlier of the LIBOR replacement date and the latest date for selecting a benchmark replacement according to the terms of the LIBOR contract, for any reason.[48]

In evaluating whether a LIBOR contract has any of these characteristics on the LIBOR replacement date, the final rule mirrors the statute and disregards any reference in any fallback provisions of a LIBOR contract to the following: (i) a benchmark replacement that is based in any way on any LIBOR value, except to account for the difference between LIBOR and the benchmark replacement; or (ii) a requirement that a person (other than a benchmark administrator) conduct a poll, survey, or inquiries for quotes or information concerning interbank lending or deposit rates (collectively, ''LIBOR- or poll-based fallback provisions'').[49] For example, if a LIBOR contract specifies the last published LIBOR value will be used if LIBOR is not published, but contains no other fallback provisions, then, pursuant to § 253.3(a)(2), this language would be disregarded as of the LIBOR replacement date. As a result, on the LIBOR replacement date, the LIBOR contract would be treated as having no fallback provisions and would transition to the Board-selected benchmark replacement under the final rule.

Consistent with the LIBOR Act, § 253.3(b) lists three types of contracts that generally would *not* be subject to the act: (i) any LIBOR contract that the parties have agreed in writing shall not be subject to the act; (ii) any LIBOR contract that contains fallback provisions that identify a benchmark replacement that is not based in any way on any LIBOR value (including the prime rate or the effective Federal Funds rate), after disregarding any LIBOR- or poll-based fallback provisions; and (iii) any LIBOR contract as to which a determining person does not elect to use the Board-selected benchmark replacement, again after disregarding any LIBOR- or poll-based fallback provisions.[50] Importantly, however, even if a determining person does not *elect* to use the Board-selected benchmark replacement, the LIBOR contract will transition to the Board-selected benchmark replacement by operation of law if the determining person does not select any benchmark replacement by the earlier of (i) the LIBOR replacement date and (ii) the latest date for selecting a benchmark replacement according to the terms of the LIBOR contract.[51]

The proposed rule would have defined the term ''covered contract'' to mean those contracts that would be subject to the proposed rule and would transition to the applicable Board-selected benchmark replacement on and after the LIBOR replacement date. Similarly, the proposed rule would have defined the term ''non-covered contract'' to mean those contracts that generally would not be subject to the proposed rule. However, the proposed rule would have clarified that a determining person may select the Board-selected benchmark replacement specified in § 253.4 of the proposed rule as the benchmark replacement for a LIBOR contract, consistent with the LIBOR Act.[52] Several commenters indicated that the proposed rule's definitions of ''covered contract'' and ''non-covered contract'' did not fully align with the provisions of the LIBOR Act and were confusing. Therefore, these commenters recommended eliminating these terms. To avoid confusion, the final rule does not employ those terms and instead hews closely to the text of the LIBOR Act.

A commenter requested that the Board clarify that a determining person may ''transition'' to the Board-selected benchmark replacement by the LIBOR replacement date *or* the first reset date following that date, which the commenter argued was the same as a practical matter. The LIBOR Act authorizes a determining person to select the Board-selected benchmark replacement, but requires the determining person to make such selection by the earlier of (i) the LIBOR replacement date and (ii) the latest date for selecting a benchmark replacement according to the terms of the contract.[53] As a result, a determining person may not select the Board-selected benchmark replacement on any date after the LIBOR replacement date, including the first reset date following the LIBOR replacement date, and rely on the LIBOR Act's protections for such a selection. The final rule mirrors the statute by authorizing a determining person to select the Board-selected benchmark replacement by the earlier of (i) the LIBOR replacement date and (ii) the latest date for selecting a benchmark replacement according to the terms of the contract.[54] The Board notes that, under the LIBOR Act and the final rule, a determining person's inaction with respect to selecting a benchmark replacement by the LIBOR replacement date will, in the absence of another fallback provision in the LIBOR contract identifying a clear and practicable benchmark replacement, cause the LIBOR contract to transition to the Board-selected benchmark replacement rate by operation of law.[55]

In its proposal, the Board invited public comment as to whether the final rule should require a determining person to provide notice to one or more parties concerning the determining person's selection. Multiple commenters recommended that the final rule not impose any notice requirements on determining persons. No commenter expressed support for the imposition of notice requirements on determining persons. As a result, the final rule does not include impose any notice requirements.

Eurodollar deposit and lending rates. Some commenters requested clarification that a fallback provision that requires an inquiry for Eurodollar deposit or lending rates would be considered a LIBOR- or poll-based fallback provision that should be disregarded under the LIBOR Act and the final rule.[56] Eurodollars are

[48] Section 253.3(a) of the final rule.

[49] Section 253.3(a)(2) of the final rule. Under the statute, any such references in any fallback provisions of the LIBOR contract would be disregarded as if not included in the fallback provisions of the contract and would be deemed null and void and without any force or effect. 12 U.S.C. 5803(b).

[50] Section 253.3(b) of the final rule. As discussed further in section IV.G, nothing in the final rule is intended to alter or modify the availability or effect of the provisions of section 105(e) of the LIBOR Act, and those provisions may apply to these LIBOR contracts. *See* 12 U.S.C. 5804(e).

[51] Section 253.3(a)(1)(iii) of the final rule.

[52] Section 253.3(b)(2) of the proposed rule.

[53] 12 U.S.C. 5803(c)(2)(B).

[54] Section 253.3(c) of the final rule. Although selection of the benchmark replacement must occur by this date, since the LIBOR Act does not affect or alter the payment or reset dates under the LIBOR contract, the actual replacement of LIBOR for payment purposes may not occur until the first reset date after the LIBOR replacement date.

[55] 12 U.S.C. 5803(c)(3); *see also* § 253.3(a)(1)(iii) of the final rule.

[56] Section 253.3(a)(2) of the final rule; 12 U.S.C. 5803(b). Under the statute, any such references in any fallback provisions of the LIBOR contract would be disregarded as if not included in the fallback provisions of the contract and would be deemed null and void and without any force or effect. 12 U.S.C. 5803(b).

Another commenter argued that fallback provisions referencing any third-party funding rate or certificate of deposit rate also should be disregarded, regardless of the method by which such rates would be obtained. Such treatment, however, would be inconsistent with the text of the LIBOR Act, which considers the methodology by which interbank lending or deposit rate information

Continued

unsecured U.S. dollar deposits held at banks or bank branches outside of the United States, and many institutional parties, including foreign central banks, are active lenders in the Eurodollar market.[57] U.S. depository institutions and U.S. branches of foreign banks indirectly borrow in Eurodollars by accepting Eurodollar deposits through offshore branches and then transferring the funds onshore.[58] The Board has therefore clarified that Eurodollar deposit and lending rates are ''interbank lending or deposit rates'' for purposes of the LIBOR rule. Accordingly, any requirement to conduct an inquiry concerning Eurodollar deposit and lending rates in fallback provisions of LIBOR contracts should be disregarded as if not included in those fallback provisions and deemed null and void and without any force or effect for purposes of the final rule. Should the LIBOR contract not identify either (i) a determining person or (ii) another clear and practicable benchmark replacement recognized under the LIBOR Act, the LIBOR contract will transition to the applicable Board-selected benchmark replacement under the final rule.

Relatedly, one commenter requested that the Board clarify how the rule applies to LIBOR contracts that give a determining person the right, authority, or obligation to select an ''alternative index'' or ''alternative comparable index'' that is ''used for determining Eurodollar lending rates'' (''Eurodollar DP contracts''). Section 104(c) of the LIBOR Act generally creates a statutory right for a determining person to select the Board-selected benchmark replacement; however, under section 104(f)(2) of the LIBOR Act, a determining person *cannot* exercise this right if the LIBOR contract identifies a benchmark replacement that is not based on any LIBOR value, such as the prime rate or the effective Federal funds rate. The commenter requested confirmation that references in Eurodollar DP contracts to an alternative index ''used for determining Eurodollar lending rates'' do not ''identify a benchmark replacement'' for purposes of section 104(f)(2), and thus that a determining person for a Eurodollar DP contract may select the Board-selected benchmark replacement pursuant to section 104(c) of the LIBOR Act.

Section 104(f)(2) of the LIBOR Act is intended to exclude from the act's scope only those contracts that identify a specific benchmark replacement such as the prime rate. Eurodollar DP contracts provide certain guidelines for determining persons to follow in selecting a benchmark replacement, but they do not identify a specific benchmark replacement. Accordingly, the Board confirms that a determining person for a Eurodollar DP contract may exercise the statutory right to select the Board-selected benchmark replacement under section 104(c) of the LIBOR Act and § 253.3(c) of the final rule.[59]

Other provisions of LIBOR contracts. The final rule includes a new paragraph stating that LIBOR contracts that transition to the Board-selected benchmark replacement generally will not have their other provisions altered or impaired by the final rule.[60] For example, the final rule states that provisions specifying the date for determining a benchmark (except in the case of derivative transactions and Federal Home Loan Bank advances, as discussed in more detail in section IV.D) would not be affected. This example is similar to a provision in the proposed rule that indicated that selection and use of the Board-selected benchmark replacement would not affect the dates on which the contractual rates are determined.[61]

Other contractual provisions that the final rule expressly does not affect include, but are not limited to, (i) provisions specifying rounding conventions for a benchmark; (ii) provisions referencing LIBOR or any LIBOR value prior to the LIBOR replacement date (including any provision requiring a person to look back to a LIBOR value as of a date preceding the LIBOR replacement date); (iii) provisions applying any cap, floor, modifier, or spread adjustment to which LIBOR had been subject pursuant to the terms of a LIBOR contract; (iv) certain provisions of Federal consumer financial law; and (v) except as provided in 12 U.S.C. 5804(c), the rights or obligations of any person, or the authorities of any agency, under Federal consumer financial law, as defined in 12 U.S.C. 5481.[62]

Some commenters had requested that the final rule expressly state its impact on these types of provisions, particularly provisions specifying rounding conventions or lookback periods that straddle the LIBOR replacement date, perhaps as benchmark replacement conforming changes. The Board believes it is most sensible to address provisions such as those listed above by clarifying that they would not be affected by the final rule.[63]

Synthetic LIBOR. When issuing the proposal, the Board sought feedback on whether the final rule should clarify how the LIBOR Act would apply if the FCA requires IBA (or any successor administrator) to publish synthetic LIBOR on and after the LIBOR replacement date. The Board specifically requested comment on how synthetic LIBOR might affect LIBOR contracts that contain fallback provisions that either identify a clear and practicable benchmark replacement or authorize a person to select a benchmark replacement, but where these fallback provisions are triggered only where LIBOR is unavailable (and are not expressly triggered where a benchmark called ''LIBOR'' is available but is not representative of the market that LIBOR is intended to measure). For example, the Board requested comment on whether the final rule should provide that a LIBOR contract containing fallback provisions that identify a clear and practicable benchmark replacement (*e.g.,* the prime rate) but lack an express non-representativeness trigger would transition to the benchmark replacement specified in the LIBOR contract (*i.e.,* the prime rate) on the earlier of (i) the date specified pursuant to the LIBOR contract or (ii) the LIBOR replacement date.

Several commenters supported the clarification outlined in the proposal. In general, these commenters argued that such clarification would (i) be consistent with the intent of the statute, (ii) promote an orderly transition away from LIBOR, (iii) reduce disruptive litigation, and (iv) be reasonable.

However, some commenters argued that the Board lacks the legal authority to adopt the clarification outlined in the proposal. In particular, these commenters noted that LIBOR contracts containing fallback provisions that

would be obtained. *See id.* It also would conflict with other provisions of the LIBOR Act, such as section 104(f)(2), which expressly indicates that the act does not alter or impair fallback provisions that identify a benchmark replacement that is not based in any way on any LIBOR value, including the prime rate or the effective Federal funds rate. 12 U.S.C. 5803(f)(2).

[57] Marco Cipriani and Julia Gouny, *The Eurodollar Market in the United States,* Liberty Street Economics (May 27, 2015), *https://libertystreeteconomics.newyorkfed.org/2015/05/the-eurodollar-market-in-the-united-states.*

[58] *Id.*

[59] The Board notes, however, that this statutory right would not be available to the determining person if the LIBOR contract *does* identify a specific benchmark replacement such as the prime rate.

[60] Section 253.3(d) of the final rule.

[61] Section 253.4(d) of the proposed rule. The proposed rule generally would have replaced references to ''LIBOR'' in LIBOR contracts with the proposed Board-selected benchmark replacement, without any modification of other contractual provisions. 87 FR 45268, 45276 (July 28, 2022).

[62] Section 253.3(d) of the final rule.

[63] As described further in section IV.E., the final rule does include certain benchmark replacement conforming changes.

identify a specific benchmark replacement (*e.g.,* the prime rate) are outside the scope of the LIBOR Act, even if they lack an express non-representativeness trigger. Accordingly, these commenters recommended that the Board clarify only the ambiguity described in the proposal with respect to LIBOR contracts that authorize a *determining person* to select a benchmark replacement when LIBOR is unavailable.

Other commenters gave other suggestions for addressing synthetic LIBOR. For example, one commenter asked the Board to work with the FCA to avoid the publication of synthetic LIBOR altogether. Other commenters suggested that the Board should deem LIBOR to be unavailable for all LIBOR contracts within the scope of the LIBOR Act even if synthetic LIBOR would be published, unless a determining person affirmatively selects synthetic LIBOR as a benchmark replacement; these commenters argued that construing synthetic LIBOR's publication as continued availability of LIBOR would be inconsistent with the purposes of the LIBOR Act.

The Board has considered this issue in light of the comments received. The Board believes that LIBOR contracts containing fallback provisions that identify a specific benchmark replacement are outside the scope of the LIBOR Act, even if these fallback provisions lack an express non-representativeness trigger. In particular, section 102(b)(3) of the LIBOR Act states that one purpose of the statute is to allow existing contracts that reference LIBOR but provide for the use of a clearly defined and practicable replacement to operate according to their terms.[64] Further, section 104(f)(2) of the LIBOR Act expressly provides that nothing in the statute may be construed to alter or impair any LIBOR contract that contains fallback provisions that identify a benchmark replacement and are not LIBOR- or poll-based fallback provisions.[65] The Board believes these provisions of the statute unambiguously remove LIBOR contracts that identify a specific benchmark replacement (*e.g.,* the prime rate) from the scope of the LIBOR Act, even if these fallback provisions lack an express non-representativeness trigger.

However, consistent with the suggestion of some commenters, the Board is clarifying in the final rule how synthetic LIBOR would affect a LIBOR contract that includes fallback provisions authorizing a person to select a benchmark replacement only when LIBOR is unavailable. As noted in section IV.B, the final rule defines a determining person to include a person with a *contingent* authority, right, or obligation to determine a benchmark replacement. Under the final rule, a person who has the authority, right, or obligation to select a benchmark replacement when LIBOR is unavailable is a ''determining person;'' accordingly, such person has a statutory right under section 104(c)(1) and (c)(2) of the LIBOR Act to select the Board-selected benchmark replacement by the earlier of (i) the LIBOR replacement date and (ii) the latest date for selecting a benchmark replacement according to the terms of the LIBOR contract.[66] If the determining person does not select a benchmark replacement by the LIBOR replacement date, the applicable Board-selected benchmark replacement will be the benchmark replacement for the LIBOR contract under section 104(c)(3) of the LIBOR Act.[67]

D. Section 253.4—Board-Selected Benchmark Replacements

Section 253.4 identifies the Board-selected benchmark replacements for various types of contracts subject to the LIBOR Act. As indicated in the proposal, the Board agrees with the ARRC's observation that different benchmark replacements may be appropriate for derivative transactions and other transactions (hereafter, ''cash transactions'').[68] Therefore, the final rule identifies different benchmark replacements for derivative transactions and for different types of cash transactions, as under the proposal. Consistent with the LIBOR Act, all of the Board-selected benchmark replacements (i) are based upon SOFR and (ii) incorporate spread adjustments for each specified tenor of LIBOR.[69]

The spread adjustments specified in the LIBOR Act are intended to address certain differences between SOFR and LIBOR, including the fact that LIBOR is unsecured and therefore includes an element of bank credit risk which may cause it to be higher than SOFR.[70] LIBOR also may include term premia and reflect supply and demand conditions in wholesale unsecured funding markets, each of which may cause LIBOR to be higher than SOFR.[71] The LIBOR Act prescribes static spread adjustments based on the tenor of LIBOR referenced in the contract (tenor spread adjustments)—specifically, 0.644 basis points (bps) (0.00644 percent) for overnight LIBOR, 11.448 bps (0.11448 percent) for one-month LIBOR, 26.161 bps (0.26161 percent) for three-month LIBOR, 42.826 bps (0.42826 percent) for six-month LIBOR, and 71.513 bps (0.71513 percent) for 12-month LIBOR.[72] For clarity, the final rule, like the proposed rule, reiterates these tenor spread adjustments in paragraph (c) of § 253.4.[73]

Two commenters requested that the final rule use different tenor spread adjustments than those specified in the LIBOR Act. As discussed, the LIBOR Act specifies tenor spread adjustments that shall be incorporated into the Board-selected benchmark replacements and does not authorize the Board to alter or modify those tenor spread adjustments. As a result, the final rule identifies Board-selected benchmark replacements that incorporate the tenor spread adjustments specified by the LIBOR Act, without modification.

Another commenter requested that the Board avoid selecting benchmark replacements that are overly complex to calculate or that have the potential to conflict with other Board-selected replacements and result in ambiguous or confusing scenarios. That commenter noted that the Board's selection of different benchmark replacements depending on contract type could create potential for hedging mismatch issues and urged the Board to consider issuing a broad range of alternative rates to allow individual firms flexibility to exercise their judgment in guarding against asset-liability mismatch issues while allowing them to rely on the LIBOR Act's protections for use of the Board-selected benchmark replacement.

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[64] 12 U.S.C. 5801(b)(3).

[65] 12 U.S.C. 5803(f)(2).

[66] *See* 12 U.S.C. 5803(c)(1)–(2); section 253.3(c) of the final rule.

[67] *See* 12 U.S.C. 5803(c)(3); § 253.3(a)(1)(iii) of the final rule. The Board notes that the statute does *not* accelerate a determining person's contingent right under a LIBOR contract to select a benchmark replacement other than the Board-selected benchmark replacement. *See* 12 U.S.C. 5803(c)(2).

[68] ARRC, *ARRC Best Practice Recommendations Related to Scope of Use of the Term Rate* (May 4, 2022), *https://www.newyorkfed.org/medialibrary/Microsites/arrc/files/2021/ARRC_Scope_of_Use.pdf.*

[69] *See* § 253.4 of the final rule. *See also* 12 U.S.C. 5802–03.

[70] ARRC, *ARRC Consultation on Spread Adjustment Methodologies for Fallbacks in Cash Products Referencing USD LIBOR* 7 (Jan. 21, 2020), *https://www.newyorkfed.org/medialibrary/Microsites/arrc/files/2020/ARRC_Spread_Adjustment_Consultation.pdf.*

[71] *Id.*

[72] *See* 12 U.S.C. 5802(20) (defining ''tenor spread adjustment''). These spread adjustments were based on a methodology originally advanced by ISDA that uses the historical median over a five-year lookback period calculating the difference between USD LIBOR and SOFR. ARRC, *ARRC Announces Further Details Regarding Its Recommendation of Spread Adjustments for Cash Products* (June 30, 2020), *https://www.newyorkfed.org/medialibrary/Microsites/arrc/files/2020/ARRC_Recommendation_Spread_Adjustments_Cash_Products_Press_Release.pdf.*

[73] Section 253.4(c) of the final rule.

As discussed in further detail below, and consistent with the ARRC's recommendations, the Board continues to believe that different contract types warrant different benchmark replacements. However, since a key purpose of the LIBOR Act and final rule is to replace LIBOR with the applicable Board-selected benchmark replacement by operation of law, the final rule aims to create a simple, clear, and manageable taxonomy with as few categories as possible. In addition, the Board believes this purpose of the final rule—to replace LIBOR automatically with a Board-selected benchmark replacement—can function only if there is a single Board-selected benchmark replacement applicable to any particular LIBOR contract. Therefore, the final rule does not identify a broad range of alternative rates as ''Board-selected benchmark replacements'' from which a firm could choose and avail itself of the LIBOR Act's protections for use of the Board-selected benchmark replacement.

1. Derivative Transactions

With respect to derivative transactions, the Board observed in the proposal that many derivative market participants have adhered to the ISDA 2020 IBOR Fallbacks Protocol (ISDA protocol) to amend their existing derivative transaction contracts to incorporate fallback provisions that would replace references to USD LIBOR with a SOFR-based rate.[74] Specifically, the ISDA protocol replaces references to USD LIBOR in adhering parties' derivative transaction contracts with a rate equal to (i) SOFR, compounded in arrears for the appropriate tenor,[75] plus (ii) a stated spread adjustment based on the appropriate tenor (the ''Fallback Rate (SOFR)''). The stated spread adjustments of the ISDA protocol are identical to the tenor spread adjustments specified in the LIBOR Act.[76] As of November 29, 2022, over 15,400 entities have adhered to the ISDA protocol to amend their derivative transactions.[77]

The Board proposed to select the Fallback Rate (SOFR) as the Board-selected benchmark replacement for derivative transactions. The Board noted that because derivatives markets already appear to reference SOFR compounded in arrears and there has been significant adherence to the ISDA protocol, it would be sensible to avoid disruption to these markets' efforts to transition away from referencing LIBOR.[78] The Board also observed that promoting use of a consistent approach to replace LIBOR references in derivative transactions should enhance financial stability and that the proposed approach was consistent with the recommendations of the ARRC.[79] The proposed rule defined a ''derivative transaction'' as ''a contract that would satisfy the criteria to be a 'Protocol Covered Document' under the ISDA protocol but for the fact that one or more parties to such contract is not an 'Adhering Party' as such term is used in the ISDA protocol, provided that, for purposes of this definition, 'Protocol Effective Date' as such term is used in the ISDA protocol means the LIBOR replacement date for the relevant covered contract.'' [80]

As noted in the proposal, ISDA has selected Bloomberg Index Services Limited (Bloomberg) to calculate and publish the Fallback Rate (SOFR) referenced in its ISDA protocol.[81] Similar to how IBA requires a license for certain uses of LIBOR,[82] the use of the Fallback Rate (SOFR) is subject to certain licensing or other usage terms imposed by Bloomberg.[83] Under its present usage terms, Bloomberg waives usage fees for users with less than $5 billion of total assets and charges one annual license fee for use of its IBOR fallbacks data.[84]

The Board did not receive comments regarding the proposed definition of ''derivative transaction.'' Most commenters supported use of the Fallback Rate (SOFR) in the ISDA protocol as the Board-selected benchmark replacement for derivative transactions, but some suggested that the Board incorporate certain technical amendments in the final rule to match precisely the calculation of the Fallback Rate (SOFR) under the ISDA protocol. In particular, these commenters requested that the Board clarify that the Fallback Rate (SOFR) should be determined on the ''derivative transaction fallback observation day,'' which essentially is defined in the ISDA Protocol as the day two payment business days prior to the payment date for the relevant calculation period.

One commenter stated that it would have preferred that the Board propose to select a rate equal to CME Term SOFR (discussed in detail in section IV.D.2) as its benchmark replacement for derivative transactions pursuant to the LIBOR Act. The commenter argued that CME Term SOFR would be the ''most economically equivalent and simplest'' replacement for LIBOR for end-users. However, that commenter acknowledged that such an approach would differ from the ARRC's recommendation and ultimately indicated that the Board should not make any changes from the ISDA

[74] ISDA, ISDA 2020 IBOR Fallbacks Protocol (Oct. 23, 2020), *https://assets.isda.org/media/3062e7b4/08268161-pdf.*

[75] For purposes of this calculation, SOFR generally is compounded in arrears over an accrual period corresponding to the tenor of the LIBOR referenced in the covered contract. That compounded rate is annualized, and the day count convention is adjusted to match that of LIBOR. Bloomberg Professional Services, *Fact Sheet: IBOR Fallbacks* (Dec. 13, 2021), *https://assets.bbhub.io/professional/sites/10/Factsheet-IBOR-Fallbacks_V4_Dec2021.pdf* (cited in response to FAQ 3 of ISDA's ''2020 IBOR Fallbacks Protocol (IBOR Fallbacks Protocol) FAQs''). *See also* Bloomberg Professional Services, *IBOR Fallback Rate Adjustments Rule Book* (Dec. 13, 2021), *https://assets.bbhub.io/professional/sites/10/IBOR-Fallback-Rate-Adjustments-Rule-Book_V3_Dec2021.pdf* (for complete discussion of the calculation).

[76] ISDA based its spread adjustments on a historical median over a five-year lookback period calculating the difference between USD LIBOR and SOFR. ARRC, *ARRC Announces Further Details Regarding Its Recommendation of Spread Adjustments for Cash Products* (June 30, 2020), *https://www.newyorkfed.org/medialibrary/Microsites/arrc/files/2020/ARRC_Recommendation_Spread_Adjustments_Cash_Products_Press_Release.pdf.*

[77] *See* ISDA, *ISDA 20202 IBOR Fallbacks Protocol—List of Adhering Parties, https://www.isda.org/protocol/isda-2020-ibor-fallbacks-protocol/adhering-parties* (last visited Nov. 29, 2022).

[78] 87 FR 45268, 45274 (July 28, 2022).

[79] *Id. See also* ARRC, *ARRC Best Practice Recommendations Related to Scope of Use of the Term Rate* (May 4, 2022), *https://www.newyorkfed.org/medialibrary/Microsites/arrc/files/2021/ARRC_Scope_of_Use.pdf* (recommending against the use of CME Term SOFR for the vast majority of the derivatives markets because these markets already reference SOFR compounded in arrears).

[80] Section 253.2 of the proposed rule. ''Protocol Covered Documents'' include (i) master agreements incorporating certain ISDA definitions booklets (each a ''covered ISDA definitions booklet''), including the 2006 ISDA Definitions and the 2000 ISDA Definitions, as published by ISDA, and referencing LIBOR or another specified IBOR (each a ''covered master agreement''); (ii) confirmations that supplement, form part of and are subject to, or are otherwise governed by, a covered master agreement; and (iii) any ISDA credit support document, including the 1994 ISDA Credit Support Annex and the 2014 Standard Credit Support Annex, that incorporates a covered ISDA definition booklet and references LIBOR or another specified IBOR. ISDA, ISDA 2020 IBOR Fallbacks Protocol 14–16 (Oct. 23, 2020), *https://assets.isda.org/media/3062e7b4/08268161-pdf.*

[81] ISDA, *Bloomberg Selected as Fallback Adjustment Vendor* (July 31, 2019), *https://www.isda.org/2019/07/31/bloomberg-selected-as-fallback-adjustment-vendor.*

[82] IBA, *About, https://www.theice.com/iba/about#licensing* (last visited Nov. 29, 2022).

[83] *See* Bloomberg Prof'l Servs., *IBOR Fallback Usage Terms* (Sept. 27, 2021), *https://assets.bbhub.io/professional/sites/27/ISDA-IBOR-Fallbacks-Web-Terms1.pdf.*

[84] *Id.* The asset threshold of $5 billion applies to a user and its affiliates as one group and can be based on assets under management, the value of assets on its balance sheet, or another objective measure that Bloomberg may reasonably employ. *Id.*

protocol's rate given the timing of the rule.

Some commenters suggested that the Board identify separate benchmark replacements for certain categories of derivative contracts. One commenter requested that the final rule transition derivative transactions linked to certain securitizations to the same benchmark replacement as those of securities related to that securitization rather than the Fallback (SOFR) rate in order to avoid basis risk, potential ratings downgrades and defaults due to unplanned mismatches in cash flows, and potential disruptions arising from disputes over how excess cashflows and shortfalls should be treated. Another commenter requested that, where a derivative transaction is executed in connection with a cash asset-backed security and the cash security's terms are structured to reflect payments under the related derivative transaction, the final rule should transition the derivative transaction to a benchmark replacement equal to a term SOFR rate so as to avoid circumventing the expectations of the parties and causing unexpected payment mismatches between the security and the derivative transaction. Similarly, another commenter recommended that the final rule allow a derivative transaction that specifically refers to the definition of LIBOR in an asset-backed security in order to hedge cashflows in the related securitization transaction to transition to the same benchmark replacement as the associated asset-backed security. This commenter acknowledged that it would not be practical or even advisable that every derivative transaction related to every cash security be transitioned in this way and that it is not operationally feasible for the parties to identify all such derivative transactions. As a result, the commenter suggested that the final rule acknowledge that, regardless of the original intent of the parties, there will be misalignments between many cash products and their related hedges because the Board-selected benchmark replacements for these products differ.

As noted, because a key purpose of the LIBOR Act and final rule is to replace LIBOR with the applicable Board-selected benchmark replacement by operation of law, the Board believes it is important for the final rule to create as simple, clear, and manageable a taxonomy as possible. This should allow parties to determine quickly and easily the Board-selected benchmark replacement to which a particular LIBOR contract will transition in the absence of fallback provisions identifying either (i) a clear and practicable benchmark replacement or (ii) a determining person. The addition of new sub-categories of derivatives transactions would increase greatly the complexity of the rule and increase burden associated with determining the applicable Board-selected benchmark replacement for a given LIBOR contract.

The Board acknowledges that basis risk may arise to the extent that derivative transactions and related cash transactions transition to different Board-selected benchmark replacements; however, the parties typically involved in these types of derivative transactions frequently manage basis risk and other hedging-related risk in the ordinary course of business. In addition, nothing in the LIBOR Act or final rule prevents parties to LIBOR contracts from agreeing to transition a particular LIBOR contract to a benchmark replacement that is more suitable to that contract than the Board-selected benchmark replacement.[85]

For all the foregoing reasons, the final rule selects the Fallback Rate (SOFR) in the ISDA protocol as the Board-selected benchmark replacement for derivative transactions. In response to comments, the final rule includes certain technical amendments to ensure that the calculation of the Fallback Rate (SOFR) under the final rule matches precisely the manner in which that rate is calculated in the ISDA protocol. In particular, the final rule defines ''derivative transaction fallback observation day'' in the same way the term is defined in the ISDA protocol and incorporates additional technical related to the calculation of the Fallback Rate (SOFR). Incorporation of this term, together with the provision in § 253.3(d)(3) indicating that contractual provisions referencing LIBOR or any LIBOR value prior to the LIBOR replacement date (including any provision requiring a person to look back to a LIBOR value as of a date preceding the LIBOR replacement date) remain unaffected, aligns the Board-selected benchmark replacement in the final rule with the calculation of the Fallback Rate (SOFR) in the ISDA protocol.

2. Cash Transactions

Under the proposed rule, references to overnight LIBOR in cash transactions would be replaced with SOFR plus a spread adjustment specified in the LIBOR Act,[86] consistent with the ARRC's recommendations.[87] Similarly, consistent with the ARRC's recommendations,[88] references to one-, three-, six-, or 12-month LIBOR in cash transactions generally would have been replaced with the comparable tenor CME Term SOFR rate plus the spread adjustment specified LIBOR Act.[89] As described further below, however, the Board proposed different Board-selected benchmark replacements for certain cash transactions involving entities regulated by the Federal Housing Finance Agency (FHFA).[90]

CME Group calculates and publishes CME Term SOFR in one-, three-, six-, and 12-month tenors.[91] Similar to how IBA requires a license for certain uses of LIBOR,[92] the use of CME Term SOFR is subject to certain licensing or other

[85] *See, e.g.,* § 253.3(b)(1) of the final rule (providing that the rule does not apply to ''[a]ny LIBOR contract that the parties have agreed in writing shall not be subject to the Adjustable Interest Rate (LIBOR) Act'').

[86] Section 253.4(b)(1)(i), (b)(2)(i)(A), (b)(2)(ii)(A), (b)(3)(i) of the proposed rule. As described further below, for one year following the LIBOR replacement date, the spread adjustment specified for cash transactions that are consumer loans will differ from the spread adjustment for LIBOR contracts that are not consumer loans.

[87] *See* ARRC, *ARRC Best Practice Recommendations Related to Scope of Use of the Term Rate* (May 4, 2022), *https://www.newyorkfed.org/medialibrary/Microsites/arrc/files/2021/ARRC_Scope_of_Use.pdf.*

[88] ARRC, *ARRC Formally Recommends Term SOFR* (July 29, 2021), *https://www.newyorkfed.org/medialibrary/Microsites/arrc/files/2021/ARRC_Press_Release_Term_SOFR.pdf.* The ARRC made its recommendation after considering, among other things: (i) the fact that CME Group's term rates were rooted in a robust and sustainable base of derivative transactions over time; (ii) the rates' limited scope of use that should support their stability over time; (iii) continued growth in overnight SOFR-linked derivatives volumes; (iv) visible progress to deepen SOFR derivative transactions' liquidity; and (v) visible growth in offerings of cash transactions linked to averages of SOFR. *Id.* For similar reasons, the Board believes that the forward-looking SOFR term rates administered by CME Group and published in one-, three-, six-, and 12-month tenors generally would be an appropriate basis for a benchmark replacement for one-, three-, six-, and 12-month LIBOR, respectively.

[89] Section 253.4(b)(1)(ii), (b)(2)(i)(B), and (b)(2)(ii)(B) of the proposed rule. CME Term SOFR is a forward-looking term rate based on SOFR administered by CME Group Benchmark Administration, Ltd. (CME Group). These forward-looking SOFR term rates are calculated by first projecting a possible path of overnight rates that is consistent with the observable averages implied by SOFR-based derivative contracts and then creating averages over standard tenors of that projected path of overnight rates. In projecting the path of overnight rates, CME Group uses a combination of one-month and three-month SOFR futures contracts to ensure that as many data points as possible are used to calculate the term structure. CME Grp., *CME Term SOFR Reference Rates Benchmark Methodology* (May 9, 2022), *https://www.cmegroup.com/market-data/files/cme-term-sofr-reference-rates-benchmark-methodology.pdf.*

[90] Section 253.4(b)(3)(ii) of the proposed rule.

[91] CME Grp., *CME Term SOFR Rates, https://www.cmegroup.com/market-data/cme-group-benchmark-administration/term-sofr.html* (last visited Nov. 29, 2022).

[92] IBA, *About, https://www.theice.com/iba/about#licensing* (last visited Nov. 29, 2022).

usage terms imposed by CME Group.[93] One commenter, whose letter appeared to focus on cash transactions, requested that the Board make every effort to ensure that Board-selected benchmark replacements be made available at low or no cost to credit unions and other not-for-profit institutions. As noted by the commenter, under its present usage terms, an end user seeking only to enter into a transaction does not need a license from CME Group.[94] In addition, CME Group has waived fees for users of CME Term SOFR for cash transactions through 2026.[95] Based on these facts, the Board believes that Board-selected benchmark replacements that are based on CME Term SOFR would be made available to market participants and end users at low to no cost.

Similar to the proposal, the final rule generally replaces references to overnight LIBOR in cash transactions with SOFR plus a spread adjustment specified in the LIBOR Act.[96] With respect to references to one-, three-, six-, or 12-month LIBOR in cash transactions other than those in the specific categories listed below, the final rule generally identifies as the Board-selected benchmark replacement the corresponding tenor of CME Term SOFR plus a spread adjustment specified in the LIBOR Act.[97] As discussed further below, for one year following the LIBOR replacement date, the spread adjustment for cash transactions that are consumer loans will differ from the spread adjustment for LIBOR contracts that are not consumer loans.

The final rule identifies separate Board-selected benchmark replacements for two categories of cash transactions: (i) similar to the proposal, certain cash transactions involving entities regulated by FHFA; and (ii) Federal Family Education Loan Program (FFELP) asset-backed securitizations (ABS). These categories of cash transactions are discussed in more detail below.

a. Cash Transactions That Are Consumer Loans

Under the LIBOR Act, any Board-selected benchmark replacement applicable to consumer loans shall, for the one-year period beginning on the LIBOR replacement date, incorporate an amount that modifies the otherwise-applicable tenor spread adjustment specified in the LIBOR Act.[98] Specifically, the LIBOR Act requires that, during the one-year period, the Board-selected benchmark replacement for consumer loans incorporate an amount that transitions linearly for each business day during that period from (i) the difference between the Board-selected benchmark replacement and the corresponding LIBOR tenor determined as of the day immediately before the LIBOR replacement date to (ii) the applicable tenor spread adjustment specified in the LIBOR Act (the transition tenor spread adjustment).[99] This transition tenor spread adjustment is intended to prevent consumer borrowers from experiencing significant, unexpected shifts in borrowing rates on and immediately following the LIBOR replacement date.

The proposed rule generally identified the same Board-selected benchmark replacements for consumer loans as for other cash transactions (*i.e.* SOFR for overnight LIBOR and CME Term SOFR for one-, three-, six-, and 12-month LIBOR).[100] Consistent with the LIBOR Act, however, the proposed rule provided that, for the one-year period beginning on the LIBOR replacement date, the Board-selected benchmark replacements for consumer loans would incorporate the applicable transition tenor spread adjustment.[101]

Refinitiv Limited has stated it will publish and provide rates for consumer loans that sum (i) CME Term SOFR and (ii) the transition tenor spread adjustment (for the one-year period beginning on the LIBOR replacement date) or the tenor spread adjustment specified in the LIBOR Act (after that one-year period), consistent with the proposed rule and the recommendations of the ARRC.[102] Refinitiv identifies these rates as ''USD IBOR Cash Fallbacks'' for ''Consumer'' products. For clarity, and particularly because calculation of the transition tenor spread adjustment applicable to consumer loans during the one-year period beginning on the LIBOR replacement date may be complex, the proposed rule indicated that these rates from Refinitiv would be deemed equal to the Board-selected benchmark replacement in the proposed rule.[103] Use of these ''USD IBOR Cash Fallbacks'' for ''Consumer'' products may be subject to certain licensing or other usage terms imposed by Refinitiv Limited.

The Board did not receive comments concerning the proposed Board-selected benchmark replacement for cash transactions that are consumer loans. As a result, the final rule generally retains these provisions as proposed, including a provision deeming the ''USD IBOR Cash Fallbacks'' for ''Consumer'' products published by Refinitiv equal to the Board-selected benchmark replacement for these transactions.[104]

b. Cash Transactions Involving Certain Entities Regulated by FHFA

Since 2020, the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation—government-sponsored enterprises (GSEs) that are regulated by FHFA—have transitioned to using the 30-calendar-day compounded average of SOFR (30-day Average SOFR), as

[93] *See* CME Grp., *CME Data Terms of Use, https://www.cmegroup.com/trading/market-data-explanation-disclaimer.html* (last visited Nov. 29, 2022); CME Grp., *CME Term SOFR Reference Rates—Frequently Asked Questions,* FAQ 8–10 (Apr. 19, 2022), *https://www.cmegroup.com/articles/faqs/cme-term-sofr-reference-rates.html.*

[94] CME Group defines an ''end user'' as an individual or entity that is a counterparty or guarantor to the applicable cash transaction or derivative transaction with the licensee of CME Term SOFR. CME Grp., *CME Term SOFR Reference Rates—Frequently Asked Questions,* FAQ 10 (Apr. 19, 2022), *https://www.cmegroup.com/articles/faqs/cme-term-sofr-reference-rates.html.*

[95] CME Grp., *CME Group Benchmark Fee List* (Dec. 2021), *https://www.cmegroup.com/files/download/benchmark-data-fee-list.pdf.*

[96] Section 253.4(b)(1)(i), (b)(2)(i)(A), (b)(2)(ii)(A), and (b)(3)(i)(A) of the final rule.

[97] Section 253.4(b)(1)(ii), (b)(2)(i)(B), and (b)(2)(ii)(B) of the final rule.

[98] 12 U.S.C. 5803(e)(2). *See* § 253.2 of the final rule for the definition of ''consumer loan.''

[99] 12 U.S.C. 5803(e)(2).

[100] Section 253.4(b)(2) of the proposed rule.

[101] Section 253.2(b)(2)(i) of the proposed rule.

[102] The ARRC selected Refinitiv Limited to publish its recommended spread adjustments and spread-adjusted rates for cash products. ARRC, *ARRC Announces Refinitiv as Publisher of its Spread Adjustment Rates for Cash Products* (Mar. 17, 2021), *https://www.newyorkfed.org/medialibrary/Microsites/arrc/files/2021/20210317-press-release-Spread-Adjustment-Vendor-Refinitiv.pdf.* With respect to the transition tenor spread adjustment, Refinitiv has stated it will incorporate a two-week lookback period for SOFR (from June 19, 2023, through June 30, 2023) in determining the difference between the Board-selected benchmark replacement and the corresponding LIBOR tenor as of the day before the LIBOR replacement date. Refinitiv Benchmark Servs. (UK) Ltd., *USD IBOR Institutional Cash Fallbacks Benchmark, USD IBOR Consumer Cash Fallbacks (1 Week, 2 Months) Benchmark, USD IBOR Consumer Cash Fallbacks (1, 3, 6 Months) Prototype Methodology* 11 (Jan. 3, 2022), *https://www.refinitiv.com/content/dam/marketing/en_us/documents/methodology/refinitiv-usd-ibor-cash-fallbacks-methodology.pdf.* The Board believes this method of determining the difference between the Board-selected benchmark replacement and the corresponding LIBOR tenor as of June 30, 2023, is consistent with the provision in the LIBOR Act.

[103] *See* § 253.4(b)(2)(iii) of the proposed rule. Refinitiv also has stated it will publish ''USD IBOR Cash Fallbacks'' for ''Institutional'' products. These rates are expected to be consistent with the proposed rule's benchmark replacement for cash transactions that are not consumer loans. The Board observes that parties to cash transactions that are not consumer loans should be able to compute easily the proposed benchmark replacement and, if needed, verify that any vendor's reported rate (including that of Refinitiv) is consistent with that proposed replacement such that no provision similar to § 253.4(b)(2)(iii) is needed for these transactions.

[104] *See* § 253.4(b)(2) of the final rule.

published by the FRBNY,[105] in their newly issued multifamily loans and other structured products. Consistent with those GSEs' current practices, the proposed rule would have selected as the benchmark replacement for LIBOR contracts involving those entities (i) in place of overnight LIBOR, SOFR, or in place of one-, three-, six, or 12-month tenors of LIBOR, 30-day Average SOFR; plus (ii) the applicable tenor spread adjustment specified in the LIBOR Act.[106] Selection of this proposed benchmark replacement was expected to enhance liquidity for both newly issued and legacy LIBOR-based products issued by those GSEs.[107]

The proposed rule would have defined a ''government-sponsored enterprise (GSE),'' consistent with its definition under the Board's capital rule, 12 CFR 217.2, as ''an entity established or chartered by the U.S. government to serve public purposes specified by the U.S. Congress but whose debt obligations are not explicitly guaranteed by the full faith and credit of the U.S. government.'' [108] The proposal would have defined the LIBOR contracts involving the GSEs that would use this benchmark replacement—termed a ''covered GSE contract''—as ''a covered contract for which a GSE is identified as a party in the transaction documents and that is (i) a commercial or multifamily mortgage loan, (ii) a commercial or multifamily mortgage-backed security, (iii) a collateralized mortgage obligation, (iv) a credit risk transfer transaction, or (v) a Federal Home Loan Bank advance.'' [109]

Multiple commenters opposed the proposed rule's definitions of ''GSE'' and ''covered GSE contract'' as overly broad in light of the Board's stated intent to capture contracts involving entities regulated by FHFA.[110] One commenter suggested that residential mortgage pass-through certificates issued by the Federal Home Loan Mortgage Corporation should not be considered a ''covered GSE contract'' and should instead be considered a cash transaction that would transition to CME Term SOFR. Other commenters suggested that the Board-selected benchmark replacement for covered GSE contracts be a term SOFR rate rather than 30-day Average SOFR for several reasons: (i) that the ARRC did not recommend 30-day Average SOFR for contracts involving GSEs, (ii) that use of 30-day Average SOFR in advance could create volatility in earnings during periods of monetary policy activity; and (iii) that use of a term SOFR rate would avoid bifurcating the market and would be consistent with public statements made by the GSEs, including GSEs not regulated by FHFA. Another commenter—FHFA—generally supported the Board's proposal but suggested certain technical amendments to the definition of ''GSE-covered contract.''

The Board continues to believe that, with the exception of Federal Home Loan Bank advances, which are discussed further below, it is appropriate to replace references to one-, three-, six, or 12-month LIBOR in contracts involving entities regulated by FHFA with 30-day Average SOFR plus the applicable tenor spread adjustment specified in the LIBOR Act. In response to comments suggesting that the ''GSE'' definition was too broad and would cover entities that are not regulated by FHFA, the final rule replaces the terms ''GSE'' and ''covered GSE contract'' with ''FHFA-regulated entity'' and ''FHFA-regulated-entity contract''. ''FHFA-regulated entity'' is defined as having the same meaning as ''regulated entity'' in 12 U.S.C. 4502(20).[111] ''FHFA-regulated-entity contract'' is defined to mean ''a LIBOR contract that is a commercial or multifamily mortgage loan that has been purchased or guaranteed, in whole or in part, by an FHFA-regulated-entity, or for which an FHFA-regulated entity is identified as a party in the transaction documents, and that is (i) a commercial or multifamily mortgage-backed security (other than a security backed by consumer loans), (ii) a collateralized mortgage obligation, (iii) a credit risk transfer transaction, or (iv) a Federal Home Loan Bank advance.'' These narrower definitions more closely track SOFR contracts executed by FHFA-regulated entities without impacting LIBOR contracts of other GSEs.

Similar to the proposal, the final rule identifies as the Board-selected benchmark replacement for FHFA-regulated-entity contracts other than Federal Home Loan Bank advances (i) in place of overnight LIBOR, SOFR, or in place of one-, three-, six-, or 12-month tenors of LIBOR, 30-day Average SOFR; plus (ii) the applicable tenor spread adjustment specified in the LIBOR Act.[112] Having consulted with FHFA, the Board believes that the final rule's Board-selected benchmark replacement rate should enhance liquidity for both newly issued and legacy LIBOR-based products issued by FHFA-regulated entities. In addition, concerning a commenter's request that any Board-selected benchmark replacement for a cash transaction be made available at low or no cost to credit unions and other not-for-profit institutions, the Board notes that 30-day Average SOFR is published by the Federal Reserve Bank of New York and available for free.

Federal Home Loan Bank advances. As noted, the proposed rule would have included Federal Home Loan Bank advances as ''covered GSE contracts'' for which references to one-, three-, six-, or 12-month tenors of LIBOR would be replaced with 30-day Average SOFR plus the applicable tenor spread adjustment specified in the LIBOR Act. One commenter recommended that references to one-, three-, six-, or 12-month tenors of LIBOR in Federal Home Loan Bank advances be replaced with a rate based on daily average SOFR in arrears matching the Fallback Rate (SOFR) in the ISDA protocol, and not with a rate based on 30-day Average SOFR. This commenter noted that, because the Federal Home Loan Banks utilize SOFR in-arrears indices for their established advance products, selection of the Fallback Rate (SOFR) in the ISDA protocol would align with the current practices of the Federal Home Loan Banks with respect to their advances.[113] FHFA, the supervisor of the Federal Home Loan Banks, supported selection of the Fallback Rate (SOFR) in the ISDA protocol for an FHFA-regulated-entity contract that is a Federal Home Loan Bank advance.

[105] Fed. Res. Bk. of NY, *Additional Information about Reference Rates Administered by the New York Fed, https://www.newyorkfed.org/markets/reference-rates/additional-information-about-reference-rates#sofr_ai_calculation_methodology* (last visited Nov. 29, 2022) (detailing the calculation methodology for the SOFR averages and index).

[106] *See* § 253.4(b)(3) of the proposed rule.

[107] 87 FR 45268, 45276 (July 28, 2022).

[108] Section 253.2 of the proposed rule.

[109] *Id.*

[110] One of these commenters would prefer that LIBOR contracts involving the Federal Agricultural Mortgage Corporation (Farmer Mac) that reference one-, three-, six-, or 12-month LIBOR transition to the corresponding tenor of CME Term SOFR plus the applicable tenor spread adjustment specified in the LIBOR Act. This commenter noted that Farmer Mac does not use 30-day Average SOFR as a benchmark for its loan products or securities.

[111] Section 253.2 of the final rule. Under 12 U.S.C. 4502(20), the term ''regulated entity'' means ''(A) the Federal National Mortgage Association and any affiliate thereof; (B) the Federal Home Loan Mortgage Corporation and any affiliate thereof; and (C) any Federal Home Loan Bank.''

[112] *See* § 253.4(b)(3) of the final rule; *see also* section 253.2 of the final rule (defining ''30-day Average SOFR'').

[113] This commenter noted also that, since the Federal Home Loan Banks use the same rate for their funding and hedging programs, selection of the Fallback Rate (SOFR) in the ISDA protocol would have the added benefit of aligning its funding costs where such funding has been created using derivative transactions with its lending rate for advances.

Having consulted with FHFA, the Board believes it would be appropriate to identify a separate benchmark replacement for FHFA-regulated-entity contracts that are Federal Home Loan Bank advances so as to align the benchmark used in legacy contracts that are Federal Home Loan Bank advances with the current practices of the Federal Home Loan Banks. Therefore, the final rule identifies the Board-selected benchmark replacement for an FHFA-regulated-entity contract that is a Federal Home Loan Bank advance as the ''Fallback Rate (SOFR)'' in the ISDA protocol, as calculated under the ISDA protocol.[114]

FFELP ABS. One group of commenters recommended that the Board identify a separate benchmark replacement for asset-backed securities that are predominantly secured by loans made under the FFELP that aligns with the LIBOR Act's amendments to FFELP special allowance payments related to those loans. Specifically, section 109 of the LIBOR Act amended the Higher Education Act of 1965 to indicate that, among other things, in instances where one-month LIBOR ceases or is non-representative, special allowance payments shall be calculated using 30-day Average SOFR rates.[115] The Board did not receive any comments recommending against identification of a separate benchmark replacement for these contracts.

The Board believes it would be appropriate to identify a separate benchmark replacement for any asset-backed security for which more than 50 percent of the collateral pool consists of FFELP loans, as reported in the most recent servicer report available on the LIBOR replacement date (defined in the final rule as ''Federal Family Education Loan Program (FFELP) asset-backed securitizations (ABS)'').[116] The Board understands that outstanding FFELP ABS do not reference overnight LIBOR; therefore, the final rule identifies benchmark replacements for one-, three-, six-, and 12-month LIBOR only.[117] Consistent with the comment received, the final rule identifies the benchmark replacement for a FFELP ABS as follows: (i) one-month LIBOR will be replaced with 30-day Average SOFR plus the tenor spread adjustment specified in the LIBOR Act; (ii) three-month LIBOR will be replaced with 90-day Average SOFR plus the tenor spread adjustment specified in the LIBOR Act; and (iii) six- or 12-month LIBOR will be replaced with 30-day Average SOFR plus the applicable tenor spread adjustment specified in the LIBOR Act.[118]

E. Section 253.5—Benchmark Replacement Conforming Changes

The LIBOR Act authorizes the Board to require any additional technical, administrative, or operational changes, alterations, or modifications to LIBOR contracts based on a determination that such changes, alterations, or modifications would address one or more issues affecting the implementation, administration, and calculation of the Board-selected benchmark replacement in LIBOR contracts (conforming changes).[119] The Board's proposed rule did not require any conforming changes, since it did not appear any additional conforming changes would be needed for successful implementation of the Board-selected benchmark replacements identified in the proposed rule. However, under the proposed rule, the Board reserved the authority, in its discretion, to require any additional conforming changes, by regulation or order.[120]

For clarity, the proposed rule also indicated that, with respect to a LIBOR contract that is not a consumer loan, a calculating person may make any additional technical, administrative, or operational changes, alterations or modifications that, in that person's reasonable judgment, would be necessary or appropriate to permit the implementation, administration, and calculation of the Board-selected benchmark replacement under or with respect to a LIBOR contract after giving due consideration to any changes, alterations, or modifications otherwise required by the Board under the proposed rule.[121] This language in the proposed rule mirrored sections 103(4)(B) and 104(d) of the LIBOR Act.[122]

The Board did not receive any comments concerning the proposed rule's provisions mirroring sections 103(4)(B) and 104(d) of the LIBOR Act. Some commenters agreed with the Board that no additional conforming changes were necessary. One commenter urged the Board to consider whether some conforming changes may be appropriate for complex consumer loans, since the LIBOR Act does not provide for a calculating person to make additional conforming changes for such loans. Another commenter recommended the Board include as a conforming change a provision that, should the Board-selected benchmark replacement not be published on a given day, then the prior day's publication of the Board-selected benchmark replacement should be used. Several commenters requested conforming changes addressing provisions in LIBOR contracts that (i) specify a particular source where a LIBOR rate may be obtained (*e.g.,* ''LIBOR as published in *The Wall Street Journal*''), (ii) specify a LIBOR rate in effect as of a particular time of day, (iii) require averaging of LIBOR over a period of time that spans the LIBOR replacement date, and (iv) define ''business day'' in a manner differently from the proposed rule.[123]

The final rule, like the proposed rule, includes provisions mirroring the language in sections 103(4) and 104(d) of the LIBOR Act, including the Board's ability to, in its discretion, publish additional benchmark replacement conforming changes, by regulation or order, and a calculating person's ability to make certain conforming changes with respect to a LIBOR contract that is not a consumer loan, consistent with the LIBOR Act.[124] In response to comments, the final rule also specifies certain conforming changes and, consistent with the LIBOR Act, indicates that these conforming changes shall become an integral part of any LIBOR contract for

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[114] Section 253.4(b)(3) of the final rule. Concerning a commenter's request that any Board-selected benchmark replacement for a cash transaction be made available at low or no cost to credit unions and other not-for-profit institutions, the Board notes that, although use of the Fallback Rate (SOFR) is subject to certain licensing or other usage terms imposed by Bloomberg, Bloomberg presently waives usage fees for users with less than $5 billion of total assets and charges one annual license fee for use of its IBOR fallbacks data. *See* Bloomberg Prof'l Servs., *IBOR Fallback Usage Terms* (Sept. 27, 2021), *https://assets.bbhub.io/professional/sites/27/ISDA-IBOR-Fallbacks-Web-Terms1.pdf*. The asset threshold of $5 billion applies to a user and its affiliates as one group and can be based on assets under management, the value of assets on its balance sheet, or another objective measure that Bloomberg may reasonably employ. *Id.*

[115] 20 U.S.C. 1087–1(b)(2)(I)(viii).

[116] *See* § 253.2 of the final rule.

[117] *See* § 253.4(b)(4) of the final rule.

[118] *Id.* Concerning a commenter's request that any Board-selected benchmark replacement for a cash transaction be made available at low or no cost to credit unions and other not-for-profit institutions, the Board notes that 30-day Average SOFR and 90-day Average SOFR are published by the Federal Reserve Bank of New York and available for free.

[119] 12 U.S.C. 5803(e).

[120] Section 253.5(a)(1) of the proposed rule.

[121] Section 253.5(a)(2) of the proposed rule.

[122] *See* 12 U.S.C. 5802(4)(B), 5803(d).

[123] As discussed in section IV.C, some commenters also requested conforming changes addressing provisions in LIBOR contracts that (i) specify rounding conventions, to the extent a particular source for the Board-selected benchmark replacement provides a different number of decimal places; and (ii) specify a lookback period that straddles the LIBOR replacement date. In the Board's view, it is clearer and more reasonable to indicate that these contractual provisions are unaffected by the final rule, rather than to include these as conforming changes.

[124] Section 253.5(a) of the final rule.

which the Board-selected benchmark replacement replaces the contract's references to LIBOR.[125]

First, the final rule replaces references in a LIBOR contract to a specified source for LIBOR (such as a particular newspaper, website, or screen) with the publication of the applicable Board-selected benchmark replacement by either the relevant benchmark administrator for the applicable Board-selected benchmark replacement or any third party authorized by the relevant benchmark administrator to publish the applicable Board-selected benchmark replacement.[126] Second, the final rule replaces references in a LIBOR contract to a particular time of day for determining LIBOR (such as 11:00 a.m. London time) with the standard publication time for the applicable Board-selected benchmark, as established by the relevant benchmark administrator.[127] Third, the final rule modifies any provision of a LIBOR contract requiring use of a combination (such as an average) of LIBOR values over a period of time that spans the LIBOR replacement to provide that the combination shall be calculated consistent with that contractual provision using (i) the applicable LIBOR for any date prior to the LIBOR replacement date and (ii) the applicable Board-selected benchmark replacement for any date on or following the LIBOR replacement date, respectively.[128] These conforming changes provide clarifications expressly requested by commenters.

The final rule also provides, subject to § 253.4(a) and (b)(3)(ii) of the final rule, that to the extent a Board-selected benchmark replacement is not available or published on a particular day indicated in the LIBOR contract as the determination date, the most recently available publication of the Board-selected benchmark replacement will apply.[129] The Board believes this provision, together with § 253.4(a) and (b)(3)(ii) of the final rule, addresses more directly an issue raised by a commenter concerning a provision of a LIBOR contract that defines ''business day'' differently from the final rule. A different definition of ''business day'' in the LIBOR contract could result in unavailability of the Board-selected benchmark replacement on the contractual determination date. This conforming change in the final rule would address that issue by directing parties to use the most recently available publication of the Board-selected benchmark replacement in the event the Board-selected benchmark replacement is not available or published on a particular day indicated in the LIBOR contract as the determination date, without affecting other provisions in the LIBOR contract that may refer to ''business day'' for a different purpose.[130]

F. Section 253.6—Preemption

As noted, section 107 of the LIBOR Act expressly preempts any provision of state or local law relating to the selection or use of a benchmark replacement or related conforming changes, or expressly limiting the manner of calculating interest (including the compounding of interest) as that provision applies to the selection or use of a Board-selected benchmark replacement or benchmark replacement conforming changes.[131] For clarity, § 253.6 of the proposed rule referenced and repeated the statutory language concerning preemption of such state or local law, statute, rule, regulation, or standard by a final rule issued by the Board pursuant to the LIBOR Act.

The Board did not receive any comments on this section of the proposed rule. Therefore, the final rule retains this section as proposed.[132]

G. Section 253.7—Continuity of Contract and Safe Harbor

In its proposal, the Board noted that the LIBOR Act provides, among other things, certain statutory protections enumerated in section 105 related to the selection and use of the Board-selected benchmark replacement.[133] The Board viewed these provisions as self-executing and, therefore, did not believe it was necessary to include any provisions in the proposed rule reiterating these sections of the LIBOR Act. However, the Board invited comment on whether the Board should incorporate into the regulation the statutory protections in section 105 of the LIBOR Act.

Some commenters recommended that the final rule incorporate the statutory protections of section 105 of the LIBOR Act. Another commenter suggested that the Board expressly acknowledge in the final rule that section 105 of the LIBOR Act is self-executing and that nothing in the rule is intended to alter or modify the scope of those protections.

Some commenters requested that the final rule expressly state, consistent with section 104(f)(6) of the LIBOR Act, that nothing in the final rule would alter or impair the rights or obligations of any person, or the authorities of any agency, under Federal consumer financial law, as defined in 12 U.S.C. 5481. One commenter suggested in the alternative that section 104(f)(6) of the LIBOR Act be expressly incorporated into the final rule. Consistent with the LIBOR Act, the Board affirms that the final rule does not affect any requirements imposed by any provision of Federal consumer financial law, as defined in 12 U.S.C. 5481.

Having considered all of these comments, the Board's final rule includes a new section expressly stating that the provisions of section 105(a)–(d) of the LIBOR Act shall apply to any LIBOR contract for which the Board-selected benchmark replacement becomes the benchmark replacement pursuant to § 253.3(a) or (c) of the final rule.[134] The section separately states that nothing in the final rule is intended to alter or modify the availability or effect of the provisions of section 105(e) of the LIBOR Act.[135]

V. Regulatory Analyses

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) requires an agency to consider whether its rules will have a significant economic impact on a substantial number of small entities. Under the RFA, in connection with a final rule, an agency is generally required to publish a final regulatory flexibility analysis (FRFA), unless the head of the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities and the agency publishes the factual basis supporting such certification. For the reasons described below, the Board certifies that the final rule will not have a significant economic impact on a substantial number of small entities.

LIBOR is used in contracts subject to the LIBOR Act across all industries, and

[125] Section 253.5(a) and (b) of the final rule.

[126] Section 253.5(b)(1) of the final rule.

[127] Section 253.5(b)(2) of the final rule.

[128] Section 253.5(b)(3) of the final rule.

[129] Section 253.5(b)(4) of the final rule.

[130] Another commenter initially requested that the Board permit the Federal Home Loan Banks to identify conforming changes for Federal Home Loan Bank advances related to terms such as determination dates, reset dates, payment dates, calculation periods, and adjustment spreads to better reflect the economics of replacing LIBOR with its preferred benchmark replacement for Federal Home Loan Bank advances. The Board notes that, for LIBOR contracts other than consumer loans, the LIBOR Act and the final rule expressly authorize a calculating person to identify benchmark replacement conforming changes. Additionally, consistent with a subsequent suggestion from the same commenter, the final rule identifies the Fallback Rate (SOFR) as the Board-selected benchmark replacement for Federal Home Loan Bank advances.

[131] 12 U.S.C. 5806.

[132] Section 253.6 of the final rule.

[133] 87 FR 45268, 45271 (July 28, 2022).

[134] Section 253.7(a) of the final rule.

[135] Section 253.7(b) of the final rule.

the Board does not believe that it is feasible to provide an estimate of the number of small entities to which the final rule will apply.[136] Given the broad coverage of the LIBOR Act, the Board expects that the number of small entities to which the final rule will apply could be significant for one or more classes of small entities.[137] However, for the reasons described below, the Board does not believe that the rule will have a significant economic impact on a substantial number of small entities.

As the Board stated in the IRFA that was published with the proposal, although section 110 of the LIBOR Act directs the Board to promulgate regulations to carry out the LIBOR Act, the Board's discretion under the LIBOR Act is limited to a small number of areas: (i) selecting SOFR-based benchmark replacements, (ii) determining any benchmark replacement conforming changes, and (iii) determining the LIBOR replacement date (in the event that any LIBOR tenor ceases or becomes nonrepresentative prior to the planned LIBOR cessation date).

With respect to Board-selected benchmark replacements, the final rule establishes Board-selected benchmark replacements for six categories of LIBOR contracts.[138] As required by the LIBOR Act, all of these Board-selected benchmark replacements are based on SOFR. Although the Board recognizes that there are some differences between the different versions of SOFR that the Board could have selected as a benchmark replacement for LIBOR, the Board believes that there is a basic economic equivalence between all SOFR-based benchmark replacements. This basic economic equivalence is reflected in the LIBOR Act itself, which requires the Board to adjust any Board-selected benchmark replacement to include the same statutorily prescribed tenor spread adjustments (except for the transition tenor spread adjustment for consumer loans). In addition, the Board was guided by voluntary market practices in selecting the Board-selected benchmark replacement for each category of LIBOR contracts. For example, the Board selected CME Term SOFR as the Board-selected benchmark replacement for most cash transactions in large part because the loan market has already transitioned from LIBOR to Term SOFR on a voluntary basis. Thus, the Board has exercised its discretion to select SOFR-based benchmark replacements in a way that will minimize market disruption. Accordingly, the Board does not believe that the Board's selection of a particular Board-selected benchmark replacement over an alternative SOFR-based rate for a particular category of LIBOR contracts is economically material.

With respect to benchmark replacement conforming changes, the final rule identifies a small number of benchmark replacement conforming changes based on feedback from commenters. Specifically, as provided in § 253.5(b) of the final rule, the Board established benchmark replacement conforming changes related to (i) any reference to a specified source for LIBOR (such as a particular newspaper, website, or screen), (ii) any reference to a particular time of day for determining LIBOR, (iii) any provision of a LIBOR contract requiring the use of a combination of LIBOR values over a period of time that spans the LIBOR replacement date, and (iv) any provision of LIBOR contract specifying use of the most recently available publication of LIBOR for any day where LIBOR is not available or published. Because these benchmark replacement conforming changes are limited to technical, administrative changes to LIBOR contracts that facilitate the transition from LIBOR to the applicable Board-selected benchmark replacement, the Board does not believe that any of the benchmark replacement conforming changes will represent a material change to any LIBOR contract. To the contrary, the Board believes that these benchmark replacement conforming changes will provide clarity and reduce the possibility of disputes over the meaning of a LIBOR contract for which a Board-selected benchmark replacement becomes the benchmark replacement. Therefore, the Board believes that economic impact of these benchmark replacement conforming changes will be de minimis.

With respect to determining the LIBOR replacement date, the Board did not propose, and the final rule does not include, a determination that any LIBOR tenor will cease or become nonrepresentative prior to the first London banking day after June 30, 2023.

Beyond these three areas where the LIBOR Act expressly vests the Board with discretion, there is one additional aspect of the final rule in respect of which the Board has exercised discretion. Specifically, the Board in the final rule has interpreted the ambiguous statutory term ''determining person'' to include any person with sole authority, right, or obligation, including on a temporary basis, (as identified by the LIBOR contract or by the governing law of the LIBOR contract, as appropriate) to determine a benchmark replacement, *whether or not the person's authority, right or obligation is subject to any contingencies specified in the LIBOR contract or by the governing law of the LIBOR contract.* The Board's interpretation of ''determining person'' in the final rule does have implications for LIBOR contracts under the terms of which the determining person's authority would be triggered on or after the LIBOR replacement date (*i.e.,* LIBOR contracts where a determining person's contractual authority arises when LIBOR becomes unavailable or non-representative).

As discussed elsewhere in this preamble, section 104(c)(2) of the LIBOR Act creates a statutory right for a determining person to select the Board-selected benchmark replacement by the earlier of the LIBOR replacement date and the latest date for selecting a benchmark replacement according to

[136] The Board generally uses the industry-specific size standards adopted by the Small Business Administration for purposes of estimating the number of small entities to which a proposed rule would apply. *See* 13 CFR 121.201. As the Board stated in the initial regulatory flexibility analysis (IRFA) that was published with the proposed rule, parties to contacts subject to the LIBOR Act may include firms of any size and in any industry, and the Board does not believe that it has sufficient data to provide a reasonable estimate of the number of small entities to which the final rule would apply.

[137] The Board received one comment letter in response to the IRFA that asked the Board to consider conducting a survey of a representative sample of small businesses to determine whether and how the rule will affect them. The Board has considered this commenter's request, but in light of (i) the practical challenges associated with assembling a representative sample of small businesses across all sectors of the U.S. economy, (ii) the statutory deadline within which the Board must promulgate implementing regulations, and (iii) the Board's conclusion that the final rule will not have a significant economic impact on a substantial number of small entities, the Board has declined to follow this commenter's suggestion. The same commenter additionally recommend that the Board conduct a policy analysis illustrating the effect of the rule on small businesses, including an analysis of alternatives, and stated that the Board should grant an exemption from the rule for small businesses if the Board cannot determine how the rule will affect them. The LIBOR Act does not authorize the Board to grant exemptions from the LIBOR Act or the final rule. Elsewhere in this preamble, the Board has discussed the effect of the final rule on parties to LIBOR contracts and explained its reasoning in respect of the limited areas where the Board has discretion to adopt alternatives.

[138] Specifically, as provided in § 253.4 of the final rule, the Board has selected different benchmark replacements for (i) derivatives transactions (''Fallback Rate (SOFR)'' in the ISDA protocol), (ii) FHFA-regulated-entity contracts other than Federal Home Loan Bank advances (30-day Average SOFR), (iii) FHFA-regulated-entity contracts that are Federal Home Loan Bank advances (''Fallback Rate (SOFR)'' in the ISDA protocol), (iv) FFELP ABS (30-day Average SOFR and 90-day Average SOFR, as applicable), (v) consumer loans (CME Term SOFR), and (vi) all other transactions (*i.e.,* cash transactions) (CME Term SOFR).

the terms of the LIBOR contract, and the Board's interpretation of ''determining person'' clarifies that this statutory right is available to a determining person even if the determining person's contractual right to select a benchmark replacement is subject to any contingencies that have not yet occurred. If the determining person does not avail itself of this statutory right, then the LIBOR contract would be regarded on the LIBOR replacement date as a LIBOR contract for which the determining person has not selected a benchmark replacement, and thus, the applicable Board-selected benchmark replacement shall be the benchmark replacement for the LIBOR contract on and after the LIBOR replacement date under section 104(c)(3) of the LIBOR Act.[139]

Alternatively, the Board could have construed ''determining person'' to include only persons whose right to select a benchmark replacement has already been triggered.[140] Under this alternative interpretation, where a LIBOR contract authorizes a person to select a benchmark replacement subject to any contingencies that do not occur before the LIBOR replacement date, such person would be unable to use the statutory right to select the Board-selected benchmark replacement rate in advance. On the LIBOR replacement date, such contract would be regarded, as applicable, as a LIBOR contract that contains no fallback provisions (or contains fallback provisions that identify neither a specific benchmark replacement nor a determining person), or a LIBOR contract for which a determining person does not select a benchmark replacement, and thus, the applicable Board-selected benchmark replacement shall be the benchmark replacement for the LIBOR contract on and after the LIBOR replacement date under section 104(a) or section 104(c)(3) of the LIBOR Act, respectively.[141]

As demonstrated above, the Board's interpretation of ''determining person'' in the final rule may impact the timing of a determining person's selection but does not affect the ultimate benchmark replacement for contracts under the terms of which the determining person's authority is not triggered until on or after the LIBOR replacement date: Under either possible interpretation, the LIBOR contract would transition to the Board-selected benchmark replacement on and after the LIBOR replacement date.[142] Accordingly, the Board does not believe its interpretation of ''determining person'' will have a material economic impact on any party to an affected LIBOR contract.

For the reasons discussed above, the Board believes that the economic impact of the final rule on small entities, including any particular class, will not be significant. Therefore, the Board is certifying that the final rule will not have a significant economic impact on a substantial number of small entities.

B. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3506; 5 CFR part 1320, appendix A.1), the Board may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a valid Office of Management and Budget (OMB) control number. The Board reviewed both the proposed rule and the final rule under the authority delegated to the Board by the OMB and determined that it contains no collections of information under the PRA.[143] Accordingly, there is no paperwork burden associated with the final rule. The Board received no comments concerning paperwork burden associated with the proposed rule.

C. Solicitation of Comments on Use of Plain Language

Section 722 of the Gramm-Leach-Bliley Act (Pub. L. 106–102, 113 Stat. 1338, 1471, 12 U.S.C. 4809) requires the Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The Board received no comments on these matters and believes that the final rule is written plainly and clearly.

D. Riegle Community Development and Regulatory Improvement Act of 1994

Section 302(a) of the Riegle Community Development and Regulatory Improvement Act (the ''Riegle Act''), Public Law 103–325, generally requires that, in determining the effective date and administrative compliance requirements for new regulations that impose additional reporting, disclosure, or other requirements on insured depository institutions, a Federal banking agency must consider, consistent with the principle of safety and soundness and the public interest, any administrative burdens that such regulations would place on depository institutions, including small depository institutions, and customers of depository institutions, as well as the benefits of such regulations.[144] In addition, section 302(b) of the Riegle Act requires new regulations and amendments to existing regulations that impose additional reporting, disclosures, or other new requirements on insured depository institutions generally shall take effect on the first day of a calendar quarter that begins on or after the date of publication in the **Federal Register**.[145] This requirement concerning the effective date does not apply in certain limited cases, including (i) if the agency determines, for good cause published with the regulation, that the regulation should become effective before such time, and (ii) if the regulation is required to take effect on a different date pursuant to an act of Congress.[146]

The Board believes that, in this case, there is good cause for an earlier effective date. In particular, an earlier effective date gives determining persons, including any determining person that is an insured depository institution, additional time to use the statutory right to select the Board-selected benchmark replacement, rather than requiring the determining person to wait until at least April 1, 2023, to make such selection. For this reason, the Board believes that an earlier effective

[139] Alternatively, depending on the particular language of the LIBOR contract, the determining person may take the position that its authority to select a benchmark replacement under the terms of the LIBOR contract is triggered on the LIBOR replacement date, and select an alternative replacement benchmark on that date only. The LIBOR Act and the final rule generally do not apply to a LIBOR contract for which a determining person selects an alternative benchmark replacement.

[140] As explained elsewhere in the preamble, the alternative interpretation of ''determining person'' is not preferable because, under that interpretation, a person who has a right to select a benchmark replacement when LIBOR becomes unavailable or non-representative would not become a determining person until the LIBOR replacement date—when LIBOR will *actually* become unavailable or non-representative. Accordingly, that person would need to wait until the LIBOR replacement date to exercise the statutory right under section 104(c)(1) and (c)(2) of the LIBOR Act to select the Board-selected benchmark replacement. The Board believes that this outcome—and the market disruption that would likely result from determining persons not selecting a benchmark replacement until the LIBOR replacement date—would be inconsistent with the Congressional intent to facilitate a smooth transition away from LIBOR and avoid disruptive litigation.

[141] Alternatively, depending on the particular language of the LIBOR contract, the determining person may take the position that its authority to select a benchmark replacement under the terms of the LIBOR contract is triggered on the LIBOR replacement date, and select a replacement benchmark on that date only. The LIBOR Act and the final rule generally do not apply to a LIBOR contract for which a determining person selects an alternative benchmark replacement.

[142] *But see supra* notes 139 and 141.

[143] *See* 44 U.S.C. 3502(3).

[144] 12 U.S.C. 4802(a).

[145] 12 U.S.C. 4802(b).

[146] *Id.*

date will increase certainty for parties to LIBOR contracts involving determining persons and will facilitate a smooth transition away from LIBOR after the LIBOR replacement date.

In addition, prompt effectiveness of the rule is consistent with congressional intent.[147]

List of Subjects in 12 CFR Part 253

Banks and banking, Interest rates.

Authority and Issuance

■ For the reasons stated in the preamble, the Board of Governors of the Federal Reserve System adds part 253 to 12 CFR chapter II to read as follows:

PART 253—REGULATIONS IMPLEMENTING THE ADJUSTABLE INTEREST RATE (LIBOR) ACT (REGULATION ZZ)

Sec.

Authority: 12 U.S.C. 5801 *et seq.*

§ 253.1 Authority, purpose, and scope.

(a) *Authority.* The Board of Governors of the Federal Reserve System (Board) has issued this part (Regulation ZZ) under the authority of Public Law 117–103, division U (the ''Adjustable Interest Rate (LIBOR) Act''), codified at 12 U.S.C. 5801 *et seq.*

(b) *Purpose.* The purposes of the Adjustable Interest Rate (LIBOR) Act are to establish a clear and uniform process, on a nationwide basis, for replacing the overnight and one-, three-, six-, and 12-month tenors of U.S. dollar LIBOR in existing contracts that do not provide for the use of a clearly defined or practicable replacement benchmark rate; to preclude litigation related to such existing contracts; to allow existing contracts that reference LIBOR but provide for the use of a clearly defined and practicable replacement rate to operate according to their terms; and to address LIBOR references in Federal law.[148] This part implements the statute by defining terms used in the statute and identifying Board-selected benchmark replacements for LIBOR contracts.

(c) *Scope.* As described in § 253.3, the Adjustable Interest Rate (LIBOR) Act and this part apply by their terms to existing contracts governed by Federal law or the law of any state that reference the overnight and one-, three-, six-, and 12-month tenors of U.S. dollar LIBOR and do not have fallback provisions providing for the use of a clearly defined and practicable replacement benchmark rate following the LIBOR replacement date, unless the parties to that contract agree in writing that the contract is not subject to the Adjustable Interest Rate (LIBOR) Act. This part does not apply to or affect existing or prospective contracts that do not reference the overnight or one-, three-, six-, or 12-month tenors of U.S. dollar LIBOR, and except as provided in § 253.3(a)(1)(iii) and (c), generally does not apply to or affect LIBOR contracts that have fallback provisions providing for the use of a clearly defined and practicable replacement benchmark for LIBOR (either directly or through selection by a determining person), even if that rate differs from the otherwise applicable Board-selected benchmark replacement. Any determining person's selection of the applicable Board-selected benchmark replacement pursuant to § 253.3(c) is subject to §§ 253.4, 253.5 (including any benchmark replacement conforming changes made by a calculating person), 253.6, and 253.7.

§ 253.2 Definitions.

30-day Average SOFR means the 30-calendar-day compounded average of SOFR, as published by the Federal Reserve Bank of New York or any successor administrator.

90-day Average SOFR means the 90-calendar-day compounded average of SOFR, as published by the Federal Reserve Bank of New York or any successor administrator.

Benchmark means an index of interest rates or dividend rates that is used, in whole or in part, as the basis of or as a reference for calculating or determining any valuation, payment, or other measurement.

Benchmark administrator means a person that publishes a benchmark for use by third parties.

Benchmark replacement means a benchmark, or an interest rate or dividend rate (which may or may not be based in whole or in part on a prior setting of LIBOR) to replace LIBOR or any interest rate or dividend rate based on LIBOR, whether on a temporary, permanent, or indefinite basis, under or with respect to a LIBOR contract.

Benchmark replacement conforming change means any technical, administrative, or operational change, alteration, or modification that:

(1) The Board determines, in its discretion, would address one or more issues affecting the implementation, administration, and calculation of the Board-selected benchmark replacement in LIBOR contracts; or

(2) Solely with respect to a LIBOR contract that is not a consumer loan, in the reasonable judgment of a calculating person, are otherwise necessary or appropriate to permit the implementation, administration, and calculation of the Board-selected benchmark replacement under or with respect to a LIBOR contract after giving due consideration to any benchmark replacement conforming changes determined by the Board under paragraph (1) of this definition.

Board-selected benchmark replacement means the benchmark replacements identified in § 253.4.

Business day means any day except for:

(1) A Saturday;

(2) A Sunday;

(3) A day on which the Securities Industry and Financial Markets Association recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in United States Government securities; or

(4) A day on which the Federal Reserve Bank of New York, with advance notice, chooses not to publish its Treasury repurchase agreement reference rates if participants in the Treasury repurchase agreement market broadly expect to treat that day as a holiday.

Calculating person means, with respect to any LIBOR contract, any person, including the determining person, responsible for calculating or determining any valuation, payment, or other measurement based on a benchmark.

CME Term SOFR means the CME Term SOFR Reference Rates published for one-, three-, six-, and 12-month tenors as administered by CME Group Benchmark Administration, Ltd. (or any successor administrator thereof).

Consumer has the same meaning as in section 103 of the Truth in Lending Act (15 U.S.C. 1602).

Consumer loan means a consumer credit transaction.

Credit has the same meaning as in section 103 of the Truth in Lending Act (15 U.S.C. 1602).

Derivative transaction means a contract that would satisfy the criteria to be a ''Protocol Covered Document''

[147] 12 U.S.C. 4802(b)(1)(C); *see also* 12 U.S.C. 5807.

[148] The act does not affect the ability of parties to use any appropriate benchmark rate in new contracts.

under the International Swaps and Derivatives Association (ISDA) protocol (*see* appendix A to this part) but for the fact that one or more parties to such contract is not an ''Adhering Party'' as such term is used in the ISDA protocol, provided that, for purposes of this definition, ''Protocol Effective Date'' as such term is used in the ISDA protocol means the LIBOR replacement date for the relevant LIBOR contract.

Derivative transaction fallback observation day means the day that is two payment business days prior to the payment date for the relevant calculation period.

Determining person means, with respect to any LIBOR contract, any person with the sole authority, right, or obligation, including on a temporary basis (as identified by the LIBOR contract or by the governing law of the LIBOR contract, as appropriate) to determine a benchmark replacement, whether or not the person's authority, right, or obligation is subject to any contingencies specified in the LIBOR contract or by the governing law of the LIBOR contract.

Fallback provisions means terms in a LIBOR contract for determining a benchmark replacement, including any terms relating to the date on which the benchmark replacement becomes effective.

Federal Housing Finance Agency (FHFA)-regulated entity has the same meaning as ''regulated entity'' in 12 U.S.C. 4502(20).

Federal Family Education Loan Program (FFELP) asset-backed securitization (ABS) means an asset-backed security for which more than 50 percent of the collateral pool consists of FFELP loans, as reported in the most recent servicer report available on the LIBOR replacement date.

FHFA-regulated-entity contract means a LIBOR contract that is a commercial or multifamily mortgage loan that has been purchased or guaranteed, in whole or in part, by an FHFA-regulated entity, or for which an FHFA-regulated entity is identified as a party in the transaction documents, and that is:

(1) A commercial or multifamily mortgage-backed security (other than a security backed by consumer loans);

(2) A collateralized mortgage obligation;

(3) A credit risk transfer transaction; or

(4) A Federal Home Loan Bank advance.

ISDA protocol means the ISDA 2020 IBOR Fallbacks Protocol published by the International Swaps and Derivatives Association, Inc., on October 23, 2020, and minor or technical amendments thereto (*see* appendix A to this part).

LIBOR, as used in this part:

(1) Means the overnight and one-, three-, six-, and 12-month tenors of U.S. dollar LIBOR (formerly known as the London interbank offered rate) as administered by ICE Benchmark Administration Limited (or any predecessor or successor administrator thereof); and

(2) Does not include the one-week or two-month tenors of U.S. dollar LIBOR.

LIBOR contract means any contract, agreement, indenture, organizational document, guarantee, mortgage, deed of trust, lease, security (whether representing debt or equity, including any interest in a corporation, a partnership, or a limited liability company), instrument, or other obligation or asset that, by its terms, uses LIBOR as a benchmark.

LIBOR replacement date means the first London banking day after June 30, 2023, unless the Board determines that any LIBOR tenor will cease to be published or cease to be representative on a different date.

Relevant benchmark administrator means:

(1) Bloomberg Index Services Limited with respect to Fallback Rate (SOFR);

(2) CME Group Benchmark Administration, Ltd. with respect to CME Term SOFR;

(3) Refinitiv Limited with respect to the Board-selected benchmark replacement for a LIBOR contract that is a consumer loan; and

(4) The Federal Reserve Bank of New York with respect to 30-day Average SOFR and 90-day Average SOFR.

Security has the same meaning as in section 2(a) of the Securities Act of 1933 (15 U.S.C. 77b(a)).

SOFR means the Secured Overnight Financing Rate published by the Federal Reserve Bank of New York or any successor administrator.

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

§ 253.3 Applicability.

(a) *General requirement.* On and after the LIBOR replacement date, the applicable Board-selected benchmark replacement shall be the benchmark replacement for the following LIBOR contracts, except to the extent that an exception in paragraph (b) of this section applies:

(1) A LIBOR contract with one of the following characteristics as of the LIBOR replacement date, after giving effect to paragraph (a)(2) of this section:

(i) The LIBOR contract contains no fallback provisions;

(ii) The LIBOR contract contains fallback provisions that identify neither—

(A) A specific benchmark replacement; nor

(B) A determining person; or

(iii) The LIBOR contract contains fallback provisions that identify a determining person, but the determining person has not selected a benchmark replacement by the earlier of the LIBOR replacement date and the latest date for selecting a benchmark replacement according to the terms of the LIBOR contract, for any reason.

(2) For purposes of this part, on the LIBOR replacement date, any reference in any fallback provisions of a LIBOR contract to the following shall be disregarded as if not included in the fallback provisions of such LIBOR contract and shall be deemed null and void and without any force or effect:

(i) A benchmark replacement that is based in any way on any LIBOR value, except to account for the difference between LIBOR and the benchmark replacement; or

(ii) A requirement that a person (other than a benchmark administrator) conduct a poll, survey, or inquiries for quotes or information concerning interbank lending or deposit rates (including, but not limited to, Eurodollar deposit or lending rates).

(b) *Exceptions.* Notwithstanding paragraph (a) of this section, this part shall not apply to—

(1) Any LIBOR contract that the parties have agreed in writing shall not be subject to the Adjustable Interest Rate (LIBOR) Act;

(2) Any LIBOR contract that contains fallback provisions that identify a benchmark replacement that is not based in any way on any LIBOR value (including the prime rate or the effective Federal Funds rate) after application of paragraph (a)(2) of this section; or

(3) Except as provided in paragraph (a)(2) or (a)(1)(iii) of this section, any LIBOR contract subject to paragraph (c) of this section as to which a determining person does not elect to use a Board-selected benchmark replacement pursuant to paragraph (c).

(c) *Selection of Board-selected benchmark replacement by determining person.* Except for any LIBOR contract described in paragraph (b)(2) of this section, a determining person may select the Board-selected benchmark replacement specified in § 253.4 as the benchmark replacement for a LIBOR contract. Any such selection shall be—

(1) Irrevocable;

(2) Made by the earlier of the LIBOR replacement date and the latest date for selecting a benchmark replacement according to the terms of the LIBOR contract; and

(3) Used in any determinations of the benchmark under or with respect to the LIBOR contract occurring on and after the LIBOR replacement date.

(d) *Other provisions of LIBOR contracts unchanged.* Except as provided in paragraph (a)(2) of this section and in § 253.5, where the applicable Board-selected benchmark replacement becomes the benchmark replacement for a LIBOR contract on and after the LIBOR replacement date pursuant to paragraph (a) or (c) of this section, all other provisions of such contract shall not be altered or impaired and shall apply to such contract using the Board-selected benchmark replacement, including but not limited to:

(1) Any provision specifying the date for determining a benchmark, except in the case of derivative transactions, which are subject to § 253.4(a)(2), and Federal Home Loan Bank advances, which are subject to § 253.4(b)(3)(ii)(B);

(2) Any provision specifying rounding conventions for a benchmark;

(3) Any provision referencing LIBOR or any LIBOR value prior to the LIBOR replacement date (including any provision requiring a person to look back to a LIBOR value as of a date preceding the LIBOR replacement date);

(4) Any provision applying any cap, floor, modifier, or spread adjustment to which LIBOR had been subject pursuant to the terms of a LIBOR contract;

(5) Any provision of Federal consumer financial law that—

(i) Requires creditors to notify borrowers regarding a change-in-terms; or

(ii) Governs the reevaluation of rate increases on credit card accounts under open-ended (not home-secured) consumer credit plans; or

(6) Except as provided in 12 U.S.C. 5804(c), the rights or obligations of any person, or the authorities of any agency, under Federal consumer financial law, as defined in 12 U.S.C. 5481.

§ 253.4 Board-selected benchmark replacements.

(a) *Derivative transactions.* (1) A LIBOR contract subject to the requirements of this part that is a derivative transaction shall use the benchmark replacement identified as the ''Fallback Rate (SOFR)'' in the ISDA protocol (*see* appendix A to this part) for each day on which LIBOR would ordinarily be observed occurring on or after the LIBOR replacement date. For clarity, the reference to ''spread relating to U.S. dollar LIBOR'' in the definition of ''Fallback Rate (SOFR)'' in the ISDA protocol is equal to the applicable tenor spread adjustment identified in paragraph (c) of this section.

(2) The benchmark replacement used to calculate the payment due for the relevant calculation period shall be determined on the derivative transaction fallback observation day in respect of the day that, under the LIBOR contract, would have been used to determine the LIBOR-based rate that is being replaced or, if the Board-selected benchmark replacement in respect of that day is not available on the derivative transaction fallback observation day, the most recently available publication on the derivative transaction fallback observation day shall be used.

(b) *All other transactions.* On the LIBOR replacement date, a LIBOR contract subject to the requirements of this part that is not a derivative transaction shall use the following benchmark replacements:

(1) For a LIBOR contract that is not a consumer loan, an FHFA-regulated-entity contract, or a FFELP ABS—

(i) In place of overnight LIBOR, the benchmark replacement shall be SOFR plus the tenor spread adjustment identified in paragraph (c)(1) of this section; and

(ii) In place of one-, three-, six-, or 12-month tenors of LIBOR, the benchmark replacement shall be the corresponding one-, three-, six-, or 12-month CME Term SOFR plus the applicable tenor spread adjustment identified in paragraph (c) of this section.

(2) For a LIBOR contract that is a consumer loan—

(i) During the one-year period beginning on the LIBOR replacement date:

(A) In place of overnight LIBOR, the benchmark replacement shall be SOFR plus an amount that transitions linearly for each business day during that period from:

(*1*) The difference between SOFR and overnight LIBOR determined as of the day immediately before the LIBOR replacement date; to

(*2*) The tenor spread adjustment identified in paragraph (c)(1) of this section; or

(B) In place of the one-, three-, six-, or 12-month tenors of LIBOR, the benchmark replacement shall be the corresponding one-, three-, six-, or 12-month CME Term SOFR plus an amount that transitions linearly for each business day during that period from:

(*1*) The difference between the relevant CME Term SOFR and the relevant LIBOR tenor determined as of the day immediately before the LIBOR replacement date; to

(*2*) The applicable tenor spread adjustment identified in paragraph (c) of this section.

(ii) On the date one year after the LIBOR replacement date and thereafter:

(A) In place of overnight LIBOR, the benchmark replacement shall be SOFR plus the tenor spread adjustment identified in paragraph (c)(1) of this section; and

(B) In place of one-, three-, six-, or 12-month tenors of LIBOR, the benchmark replacement shall be the corresponding one-, three-, six-, or 12-month CME Term SOFR plus the applicable tenor spread adjustment identified in paragraph (c) of this section.

(iii) The rates published or provided by Refinitiv Limited as ''USD IBOR Cash Fallbacks'' for ''Consumer'' products shall be deemed equal to the rates identified in paragraphs (b)(2)(i) and (ii) of this section.

(3) For a LIBOR contract that is an FHFA-regulated-entity contract—

(i) For an FHFA-regulated-entity contract that is not a Federal Home Loan Bank advance—

(A) In place of overnight LIBOR, the benchmark replacement shall be SOFR plus the tenor spread adjustment identified in paragraph (c)(1) of this section; and

(B) In place of one-, three-, six-, or 12-month tenors of LIBOR, the benchmark replacement shall be the 30-day Average SOFR plus the applicable tenor spread adjustment identified in paragraph (c) of this section.

(ii) For an FHFA-regulated-entity contract that is a Federal Home Loan Bank advance—

(A) The benchmark replacement shall be the ''Fallback Rate (SOFR)'' in the ISDA protocol (*see* appendix A to this part) for each day on which LIBOR would ordinarily be observed occurring on or after the LIBOR replacement date. For clarity, the reference to ''spread relating to U.S. dollar LIBOR'' in the definition of ''Fallback Rate (SOFR)'' in the ISDA protocol is equal to the applicable tenor spread adjustment identified in paragraph (c) of this section.

(B) The benchmark replacement used to calculate the payment due for the relevant calculation period shall be determined on the derivative transaction fallback observation day in respect of the day that, under the LIBOR contract, would have been used to determine the LIBOR-based rate that is being replaced or, if the Board-selected

benchmark replacement in respect of that day is not available on the derivative transaction fallback observation day, the most recently available publication on the derivative transaction fallback observation day shall be used.

(4) For a LIBOR contract that is a FFELP ABS—

(i) In place of one-month LIBOR, the benchmark replacement shall be 30-day Average SOFR plus the tenor spread adjustment identified in paragraph (c)(2) of this section;

(ii) In place of three-month LIBOR, the benchmark shall be 90-day Average SOFR plus the tenor spread adjustment identified in paragraph (c)(3) of this section; and

(iii) In place of six- or 12-month tenors of LIBOR, the benchmark replacement shall be 30-day Average SOFR plus the tenor spread adjustment identified in paragraph (c)(4) or (5) of this section, as applicable.

(c) *Tenor spread adjustments.* The following tenor spread adjustments shall be included as part of the Board-selected benchmark replacements as indicated in paragraphs (a) and (b) of this section:

(1) 0.00644 percent for overnight LIBOR;

(2) 0.11448 percent for one-month LIBOR;

(3) 0.26161 percent for three-month LIBOR;

(4) 0.42826 percent for six-month LIBOR; and

(5) 0.71513 percent for 12-month LIBOR.

§ 253.5 Benchmark replacement conforming changes.

(a) *Benchmark replacement conforming changes generally.* (1) If the Board-selected benchmark replacement becomes the benchmark replacement for a LIBOR contract pursuant to § 253.3(a) or (c), all applicable benchmark replacement conforming changes shall become an integral part of the LIBOR contract.

(2) Paragraph (b) of this section establishes specific benchmark replacement conforming changes. The Board may, in its discretion, publish additional benchmark replacement conforming changes by regulation or order.

(3) Solely with respect to any LIBOR contract that is not a consumer loan, a calculating person may make any additional technical, administrative, or operational changes, alterations, or modifications that, in that person's reasonable judgment, would be necessary or appropriate to permit the implementation, administration, and calculation of the Board-selected benchmark replacement under or with respect to a LIBOR contract after giving due consideration to any changes, alterations, or modifications otherwise required by the Board, without any requirement to obtain consent from any other person prior to the adoption of such benchmark replacement conforming changes.

(b) *Specified benchmark replacement conforming changes.* (1) Any reference to a specified source for LIBOR (such as a particular newspaper, website, or screen) shall be replaced with the publication of the applicable Board-selected benchmark replacement (inclusive or exclusive of the relevant tenor spread adjustment identified in § 253.4(c)) by either the relevant benchmark administrator for the applicable Board-selected benchmark replacement or any third party authorized by the relevant benchmark administrator to publish the applicable Board-selected benchmark replacement.

(2) Any reference to a particular time of day for determining LIBOR (such as 11:00 a.m. London time) shall be replaced with the standard publication time for the applicable Board-selected benchmark replacement (inclusive or exclusive of the relevant tenor spread adjustment identified in § 253.4(c)), as established by the relevant benchmark administrator.

(3) Any provision of a LIBOR contract requiring use of a combination (such as an average) of LIBOR values over a period of time that spans the LIBOR replacement date shall be modified to provide that the combination shall be calculated consistent with that contractual provision using:

(i) The applicable LIBOR for any date prior to the LIBOR replacement date; and

(ii) The applicable Board-selected benchmark replacement rate for any date on or following the LIBOR replacement date, respectively.

(4) Subject to § 253.4(a) and (b)(3)(ii), to the extent a Board-selected benchmark replacement is not available or published on a particular day indicated in the LIBOR contract as the determination date, the most recently available publication of the Board-selected benchmark replacement will apply.

§ 253.6 Preemption.

Pursuant to section 107 of the Adjustable Interest Rate (LIBOR) Act, 12 U.S.C. 5806, this part supersedes any provision of any state or local law, statute, rule, regulation, or standard—

(a) Relating to the selection or use of a benchmark replacement or related conforming changes; or

(b) Expressly limiting the manner of calculating interest, including the compounding of interest, as that provision applies to the selection or use of a Board-selected benchmark replacement or benchmark replacement conforming changes.

§ 253.7 Continuity of contract and safe harbor.

(a) The provisions of section 105(a)–(d) of the Adjustable Interest Rate (LIBOR) Act, 12 U.S.C. 5804(a)–(d), shall apply to any LIBOR contract for which the Board-selected benchmark replacement becomes the benchmark replacement pursuant to § 253.3(a) or (c).

(b) Nothing in this part is intended to alter or modify the availability or effect of the provisions of section 105(e) of the Adjustable Interest Rate (LIBOR) Act, 12 U.S.C. 5804(e).

Appendix A to Part 253—ISDA Protocol

For ease of reference, the Board is republishing, with permission, the full text of the ISDA 2020 IBOR Fallbacks Protocol (ISDA protocol), published on October 23, 2020, by the International Swaps and Derivatives Association, Inc. The full text of the ISDA protocol follows:

ISDA 2020 IBOR Fallbacks Protocol

Published on October 23, 2020

By the International Swaps and Derivatives Association, Inc.

The International Swaps and Derivatives Association, Inc. (ISDA) has published this ISDA 2020 IBOR Fallbacks Protocol (this Protocol) to enable parties to Protocol Covered Documents to amend the terms of each such Protocol Covered Document to (i) in respect of a Protocol Covered Document which incorporates, or references a rate as defined in, a Covered ISDA Definitions Booklet, include in the terms of such Protocol Covered Document either the terms of, or a particular defined term included in, the Supplement to the 2006 ISDA Definitions, finalized on October 23, 2020 and to be published by ISDA and effective on January 25, 2021 (the IBOR Fallbacks Supplement) and (ii) in respect of a Protocol Covered Document which otherwise references a Relevant IBOR, include in the terms of such Protocol Covered Document new fallbacks for that Relevant IBOR.

Accordingly, a party may adhere to this Protocol and be bound by its terms by completing and delivering a letter substantially in the form of Exhibit 1 to this Protocol (an Adherence Letter) to ISDA, as agent, as described below (each such party, an Adhering Party).

1. Adherence to and Effectiveness of the Protocol

(a) By adhering to this Protocol in the manner set forth in this paragraph 1, each

Adhering Party agrees, in consideration of the mutual promises and covenants contained herein, that the terms of each Protocol Covered Document between such Adhering Party and any other Adhering Party will be amended in accordance with the terms and subject to the conditions set forth in the Attachment hereto.

(b) Adherence to this Protocol will be evidenced by the execution and online delivery, in accordance with this paragraph, to ISDA, as agent, of an Adherence Letter (in accordance with subparagraphs 1(b)(i) to 1(b)(iii) below). ISDA shall have the right, in its sole and absolute discretion, upon at least thirty calendar days' notice on the ''ISDA 2020 IBOR Fallbacks Protocol'' section of its website at *www.isda.org* (or by other suitable means), to designate a closing date of this Protocol (such closing date, the Cut-off Date). After the Cut-off Date, ISDA will not accept any further Adherence Letters to this Protocol.

(i) Each Adhering Party will access the ''Protocols'' section of the ISDA website at *www.isda.org* to enter information online that is required to generate its form of Adherence Letter and will submit payment of any applicable fee. Either by directly downloading the populated Adherence Letter from the Protocol system or upon receipt via email of the populated Adherence Letter, each Adhering Party will sign and upload the signed Adherence Letter as a PDF (portable document format) attachment into the Protocol system. Once the signed Adherence Letter has been approved and accepted by ISDA, such Adhering Party will receive an email confirmation of the Adhering Party's adherence to this Protocol.

(ii) A conformed copy of each Adherence Letter containing, in place of each signature, the printed or typewritten name of each signatory will be published by ISDA so that it may be viewed by all Adhering Parties. Each Adhering Party agrees that, for evidentiary purposes, a conformed copy of an Adherence Letter certified by the General Counsel (or other appropriate officer) of ISDA will be deemed to be an original.

(iii) Each Adhering Party agrees that the determination of the date and time of acceptance of any Adherence Letter will be determined by ISDA in its absolute discretion. Any Adherence Letter which is dated and delivered to ISDA before the date on which this Protocol is published will be deemed to have been delivered on the date on which this Protocol is published.

(c) As between two Adhering Parties, the agreement to make the amendments contemplated by this Protocol, on the terms and conditions set forth in this Protocol, will be effective on the Implementation Date and that agreement will form part of each Protocol Covered Document from the later of the Implementation Date and the related Protocol Covered Document Date. The amendments contemplated by this Protocol shall be made on the later of (i) the Implementation Date and (ii) the Protocol Effective Date.

(A) The Protocol Effective Date with respect to a Protocol Covered Document shall be January 25, 2021.

(B) The Implementation Date with respect to any two Adhering Parties shall be the date of acceptance by ISDA, as agent, of an Adherence Letter (in accordance with paragraph 1(b) above) from the later of such two Adhering Parties to adhere except that:

(I) In respect of any Protocol Covered Document into which an Agent has entered on behalf of a Client, subject to paragraph 3(m) below, the Implementation Date shall be the date specified in subparagraph 3(g)(i)(A), subparagraph 3(g)(i)(B), subparagraph 3(g)(i)(C), paragraph 3(h), paragraph 3(i) or paragraph 3(j) below, as applicable; and

(II) In respect of any Non-Agent Executed Protocol Covered Document, subject to paragraph 3(m) below, the Implementation Date shall be the day specified in paragraph 3(l) below.

Acceptance by ISDA of a subsequent or revised Adherence Letter from either such Adhering Party will not have the effect of changing such Implementation Date.

(d) This Protocol is intended for use without negotiation, but without prejudice to any amendment, modification or waiver in respect of a Protocol Covered Document that the parties may otherwise effect in accordance with the terms of that Protocol Covered Document.

(i) In adhering to this Protocol, an Adhering Party may not specify additional provisions, conditions or limitations in its Adherence Letter.

(ii) Any purported adherence that ISDA, as agent, determines in good faith is not in compliance with this Protocol will be void and ISDA will inform the relevant party of such fact as soon as reasonably possible after making such determination.

(e) Each Adhering Party acknowledges and agrees that adherence to this Protocol is irrevocable, except that an Adhering Party may, after the Protocol Effective Date, deliver to ISDA, as agent, a notice substantially in the form of Exhibit 2 to this Protocol that is effective (determined pursuant to paragraph 3(f) below) on any Protocol Business Day (a Revocation Notice) to designate the next Revocation Date as the last date on which an Implementation Date can occur in respect of any Protocol Covered Document between the counterparty and such Adhering Party. Following the effective delivery of a Revocation Notice by an Adhering Party, this Protocol will not amend any Protocol Covered Document between that Adhering Party and another Adhering Party for which the Implementation Date would occur after the related Revocation Date.

(i) If an Agent adheres to this Protocol on behalf of a Client, then, if the Client effectively delivers a Revocation Notice in accordance with this paragraph 1(e), this Protocol will not amend any Protocol Covered Document between another Adhering Party and that Client entered into by that Client itself or by the Agent on behalf of that Client or any Non-Agent Executed Protocol Covered Document (if applicable), in each case, for which the Implementation Date would occur after the Revocation Date designated as the last date on which an Implementation Date can occur in the Client's Revocation Notice.

(ii) If an Agent delivers a Revocation Notice in accordance with this paragraph 1(e) on behalf of a Client and the Client separately adheres to this Protocol directly rather than through the agency of an Agent, then the Revocation Notice delivered by the Agent will not prevent an Implementation Date from occurring after the Revocation Date in respect of any Protocol Covered Document into which the Client has entered with another Adhering Party (including through the Agent).

(iii) Subparagraph 1(e)(i), subparagraph 1(e)(ii) and subparagraph 1(e)(iii) are without prejudice to any amendment effected pursuant to this Protocol to any Protocol Covered Document between two Adhering Parties for which the Implementation Date occurred on or before the day on which that Revocation Date occurs or is deemed to occur, regardless of the date on which such Protocol Covered Document is entered into, and any such amendment shall be effective notwithstanding the occurrence or deemed occurrence of such Revocation Date.

(iv) Each Revocation Notice must be delivered by the means specified in paragraph 3(f) below.

(v) Each Adhering Party agrees that, for evidentiary purposes, a conformed copy of a Revocation Notice certified by the General Counsel or an appropriate officer of ISDA will be deemed to be an original.

(vi) Any purported revocation that ISDA, as agent, determines in good faith is not in compliance with this paragraph 1(e) will be void and ISDA will inform the relevant party of such fact as soon as reasonably possible after making such determination.

2. Representations and Undertakings

(a) As of the later of (i) the date on which an Adhering Party adheres to this Protocol in accordance with paragraph 1 above (which will be the date of acceptance by ISDA of an Adherence Letter from that Adhering Party (in accordance with paragraph 1(b) above)) and (ii) the Protocol Covered Document Date, such Adhering Party represents to each other Adhering Party with which it has entered into a Protocol Covered Document (which representations will be deemed to be repeated on the Protocol Effective Date and the Implementation Date if one or both such dates are later than the date on which such Adhering Party adheres to this Protocol) each of the following matters:

(A) *Status.* It is, if relevant, duly organized and validly existing under the laws of the jurisdiction of its organization or incorporation and, if relevant under such laws, in good standing or, if it otherwise represents its status in or pursuant to the Protocol Covered Document, has such status.

(B) *Powers.* It has the power to execute and deliver the Adherence Letter and to perform its obligations under the Adherence Letter and the Protocol Covered Document as amended by the Adherence Letter and this Protocol (including the Attachment hereto), and has taken all necessary action to authorize such execution, delivery and performance.

(C) *No Violation or Conflict.* Such execution, delivery and performance do not violate or conflict with any law applicable to it, any provision of its constitutional documents, any order or judgment of any court or other agency of government

applicable to it or any of its assets or any contractual restriction binding on or affecting it or any of its assets.

(D) *Consents.* All governmental and other consents that are required to have been obtained by it with respect to the Adherence Letter and the Protocol Covered Document, as amended by the Adherence Letter and this Protocol (including the Attachment hereto), have been obtained and are in full force and effect and all conditions of any such consents have been complied with.

(E) *Obligations Binding.* Its obligations under the Adherence Letter and the Protocol Covered Document, as amended by the Adherence Letter and this Protocol (including the Attachment hereto), constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms (subject to applicable bankruptcy, reorganization, insolvency, moratorium or similar laws affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or at law)).

(F) *Credit Support.* Its adherence to this Protocol and any amendment contemplated by this Protocol (including the Attachment hereto) will not, in and of itself, adversely affect the enforceability, effectiveness or validity of any obligations owed, whether by it or by any third party, under any Credit Support Document or Third Party Credit Support Document in respect of its obligations relating to any Protocol Covered Document as amended by the Adherence Letter and this Protocol (including the Attachment hereto).

(b) Each Adhering Party agrees with each other Adhering Party with which it has entered into a Protocol Covered Document that each of the foregoing representations will be deemed, in the case of a Protocol Covered Document that is an ISDA Master Agreement, to be a representation for purposes of Section 5(a)(iv) and in the case of any other Protocol Covered Document, to be a representation for purposes of any analogous provisions of each such Protocol Covered Document, that is made by each Adhering Party as of the later of (i) the date on which such Adhering Party adheres to this Protocol in accordance with paragraph 1 above and (ii) the Protocol Covered Document Date and which is deemed repeated on the Protocol Effective Date and the Implementation Date if one or both such dates are later than the date on which such Adhering Party adheres to this Protocol.

(c) *Undertakings in respect of Protocol Covered Documents with Third Party Credit Support Documents.* With respect to Protocol Covered Documents with Third Party Credit Support Documents that expressly require the consent, approval, agreement, authorization or other action of a Third Party to be obtained, each Adhering Party whose obligations under such arrangements are secured, guaranteed or otherwise supported by such Third Party undertakes to each other Adhering Party with which it has entered into such arrangements that it has obtained the consent (including by way of paragraph 2(d) below), approval, agreement, authorization or other action of such Third Party and that it will, upon demand, deliver evidence of such consent, approval, agreement, authorization or other action to such other Adhering Party.

(d) *Deemed Third Party Consent.* Each Adhering Party which is also a Third Party in relation to a Third Party Credit Support Document is hereby deemed to have consented to the amendments imposed by this Protocol on the Protocol Covered Document supported by such Third Party Credit Support Document.

3. Miscellaneous

(a) *Entire Agreement; Restatement; Survival.*

(i) This Protocol constitutes the entire agreement and understanding of the Adhering Parties with respect to its subject matter and supersedes all oral communication and prior writings (except as otherwise provided herein) with respect thereto. Each Adhering Party acknowledges that in adhering to this Protocol it has not relied on any oral or written representation, warranty or other assurance (except as provided for or referred to elsewhere in this Protocol or in the Attachment) and waives all rights and remedies which might otherwise be available to it in respect thereof, except that nothing in this Protocol will limit or exclude any liability of an Adhering Party for fraud.

(ii) Except for any amendment deemed to be made pursuant to this Protocol in respect of any Protocol Covered Document, all terms and conditions of each Protocol Covered Document will continue in full force and effect in accordance with its provisions as in effect immediately prior to the date on which it first becomes subject to this Protocol. Except as explicitly stated in this Protocol, nothing herein shall constitute a waiver or release of any rights of any Adhering Party under any Protocol Covered Document to which such Adhering Party is a party or a provider or recipient of credit support. This Protocol will, with respect to its subject matter, survive, and any amendments made or deemed to be made pursuant to this Protocol will form a part of each Protocol Covered Document between the Adhering Parties, notwithstanding any statements in a Protocol Covered Document to the effect that such Protocol Covered Document constitutes the entire agreement and understanding between the parties to such Protocol Covered Document with respect to the subject of such Protocol Covered Document.

(b) *Exclusion of Agreements.* Notwithstanding anything in paragraph 1(a) above, with respect to any agreement between Adhering Parties, if the parties to such agreement have expressly stated in such agreement or otherwise agreed in writing that this Protocol shall not apply, then such agreement shall not be a Protocol Covered Document.

(c) *Amendments.* An amendment, modification or waiver in respect of the matters contemplated by this Protocol (including, for the avoidance of doubt, any amendment, modification or waiver relating to the alignment of a Protocol Covered Document with an instrument for which such Protocol Covered Document is intended to serve as a hedge (or *vice versa*)) will only be effective in respect of a Protocol Covered Document if made in accordance with the terms of the Protocol Covered Document and then only with effect between the parties to that Protocol Covered Document.

(d) *Headings.* The headings used in this Protocol and any Adherence Letter are for convenience of reference only and are not to affect the construction of or to be taken into consideration in interpreting this Protocol or any Adherence Letter.

(e) *Governing Law.* This Protocol and each Adherence Letter will, as between two Adhering Parties and in respect of each Protocol Covered Document between them, be governed by and construed in accordance with the laws of England and Wales, without reference to choice of law doctrine, *provided* that the amendments to each Protocol Covered Document shall be governed by and construed in accordance with the law specified to govern that Protocol Covered Document and otherwise in accordance with the applicable choice of law doctrine.

(f) *Notices.* Any Revocation Notice must be in writing and delivered as a locked PDF (portable document format) attachment to an email to ISDA at *isda@isda.org* and will be deemed effectively delivered on the date it is delivered unless, on the date of that delivery, ISDA's London office is closed or that communication is delivered after 5:00 p.m., London time, in which case that communication will be deemed effectively delivered on the next day ISDA's London office is open.

(g) *Ability of an Agent to Adhere to the Protocol on Behalf of a Client.*

(i) An Agent may adhere to this Protocol:

(A) On behalf of all Clients represented by such Agent (in which case, such Agent need not identify each Client through an online platform available generally to the industry, including, for example, the ISDA Amend platform provided by IHS Markit (a Platform) and, in respect of any Protocol Covered Document into which the Agent has entered on behalf of those Clients, the Implementation Date shall be the date of acceptance by ISDA of an Adherence Letter (in accordance with paragraph 1(b) above) from the later of the two Adhering Parties to adhere);

(B) On behalf of only those Clients represented by such Agent that such Agent specifically names or identifies through a Platform and, in respect of any Protocol Covered Document into which the Agent has entered on behalf of any such Client, the Implementation Date shall be the date shown on the Platform as the date on which the Agent communicates the name or identity of that Client to the other Adhering Party (or, if later, the date of acceptance by ISDA, as agent, of an Adherence Letter from the other Adhering Party); or

(C) On behalf of all Clients represented by such Agent, excluding any Clients whose name or identity the Agent communicates to the other Adhering Party through a Platform as a Client excluded from adherence, subject to subparagraph 3(h)(i) below, on or before the date of acceptance by ISDA of an Adherence Letter (in accordance with

paragraph 1(b) above) from the later of the two Adhering Parties to adhere (in which case, such Agent need not identify each Client on whose behalf it adheres through a Platform). In respect of any Protocol Covered Document into which the Agent has entered on behalf of any Client whose name or identity has not been communicated to the other Adhering Party through a Platform as a Client excluded from adherence, the Implementation Date shall (subject to subparagraph 3(h)(i) below) be the date of acceptance by ISDA of an Adherence Letter (in accordance with paragraph 1(b) above) from the later of the two Adhering Parties to adhere. If the Agent has not communicated the name or identity of any Clients excluded from adherence to the other Adhering Party through a Platform on or before the date of acceptance by ISDA of an Adherence Letter (in accordance with paragraph 1(b) above) from the later of the two Adhering Parties to adhere, then (subject to subparagraph 3(h)(i) below) in respect of any Protocol Covered Document into which the Agent has entered on behalf of any Client, the Implementation Date shall be the date of acceptance by ISDA of an Adherence Letter (in accordance with paragraph 1(b) above) from the later of the two Adhering Parties to adhere, and, in each case, if the Agent elects for Option 2 in its Adherence Letter, on behalf of those Clients whose name or identity the Agent communicates to the other Adhering Party through a Platform as being a Client in respect of which subparagraph 3(g)(ii)(B)(II) below applies (in which case, the Implementation Date in respect of any Non-Agent Executed Protocol Covered Document shall be as specified in subparagraph 3(l) below).

(ii) In each case, the Agent can elect to apply the amendments in this Protocol to either:

(A) In respect of all those Clients on whose behalf the Agent adheres pursuant to subparagraph 3(g)(i)(A), subparagraph 3(g)(i)(B) or subparagraph 3(g)(i)(C) above, each Protocol Covered Document into which the Agent has entered on behalf of those Clients (Option 1); or

(B) In respect of all those Clients on whose behalf the Agent adheres pursuant to subparagraph 3(g)(i)(A), subparagraph 3(g)(i)(B) or subparagraph 3(g)(i)(C) above, each Protocol Covered Document into which the Agent has entered on behalf of those Clients and (II) in respect of those Clients on whose behalf the Agent adheres whose name or identity the Agent communicates to the other Adhering Party through a Platform as being a Client in respect of which this subparagraph 3(g)(ii)(B)(II) applies, each Protocol Covered Document into which the Agent did not enter on behalf of those Clients but which the Agent has the authority from the relevant Client to amend (for the purpose of this Protocol, documents described in this subparagraph 3(g)(ii)(B)(II) being *Non-Agent Executed Protocol Covered Documents* and the date shown on the Platform as the date on which the Agent communicates the name or identity of the Client to the other Adhering Party for the purposes of this subparagraph 3(g)(ii)(B)(II) being the *Identification Date*) (Option 2). If an Agent adheres to this Protocol and elects for Option 2, in respect of any Client on whose behalf the Agent adheres pursuant to subparagraph 3(g)(i)(A), subparagraph 3(g)(i)(B) or subparagraph 3(g)(i)(C) above whose name or identity is communicated to the other Adhering Party as being a Client in respect of which subparagraph 3(g)(ii)(B)(II) above applies, Protocol Covered Documents referred to in both subparagraph 3(g)(ii)(B)(I) and subparagraph 3(g)(ii)(B)(II) above will be amended in accordance with the terms of this Protocol. For the avoidance of doubt, any Protocol Covered Document into which the Agent did not enter on behalf of a Client and which the Agent does not have the authority from the relevant Client to amend will not constitute a Non-Agent Executed Protocol Covered Document.

(iii) The election for Option 1 or Option 2 shall be made in the Adherence Letter. Adherence by the Agent shall only be effective with respect to those Protocol Covered Documents described in Option 1 or Option 2, as applicable, and as elected in the Adherence Letter (subject to, if the Agent elects for Option 2 and with respect to Non-Agent Executed Protocol Covered Documents,

(A) Subparagraph 3(g)(iv) and paragraph 3(l) below and (B) the Agent communicating the name or identity of those Clients on behalf of which it is amending Non-Agent Executed Protocol Covered Documents to the other Adhering Party, in accordance with subparagraph 3(g)(ii)(B)(II) above (regardless of whether the Agent adheres to this Protocol using the approach described in subparagraph 3(g)(i)(A), subparagraph 3(g)(i)(B) or subparagraph 3(g)(i)(C) above)).

(iv) If an Agent adheres to this Protocol and elects for Option 2 in its Adherence Letter, then, in respect of any Non-Agent Executed Protocol Covered Document only, the Agent shall, as soon as reasonably practicable following a written request (including by email) from the other Adhering Party, and in any event by no later than the end of the fifteenth calendar day following such request, provide reasonable evidence satisfactory to the other Adhering Party in its sole discretion supporting the Agent's authority to amend such documents, provided that:

(A) If, prior to the date of acceptance by ISDA of an Adherence Letter (in accordance with paragraph 1(b) above) from the later of the Agent and the other Adhering Party to adhere, the Agent has delivered to the other Adhering Party a copy, or relevant extracts, of the agreement (such as an investment management agreement) pursuant to which the relevant Client appoints the Agent to act on its behalf and authorizes the Agent to make the amendments contemplated by this Protocol to the Non-Agent Executed Protocol Covered Document (whether or not such authority expressly refers to this Protocol), then, subject to the other Adhering Party's right to request (which request must be in writing (which includes by email)) an additional copy of that agreement or those relevant extracts (which request shall be made no later than the end of the fifteenth calendar day following the later of the Identification Date and the date of acceptance by ISDA, as agent, of an Adherence Letter from that other Adhering Party), the Agent need not provide any further evidence supporting its authority to amend that Non-Agent Executed Protocol Covered Document on behalf of that Client for the purposes of this Protocol and, in respect of that Non-Agent Executed Protocol Covered Document, shall be deemed to have provided reasonable evidence satisfactory to the other Adhering Party on (I) if the other Adhering Party does not request an additional copy of that agreement or those relevant extracts, the end of the fifteenth calendar day following the later of the Identification Date and the date of acceptance by ISDA, as agent, of an Adherence Letter from that other Adhering Party or

(II) If the other Adhering Party does request an additional copy of that agreement or those relevant extracts, the day on which that additional copy is delivered to the other Adhering Party;

(B) If the other Adhering Party does not request such evidence by the end of the fifteenth calendar day following the later of the Identification Date and the date of acceptance by ISDA, as agent, of an Adherence Letter from that other Adhering Party, then the Agent shall be deemed to have provided reasonable evidence satisfactory to the other Adhering Party at the end of that fifteenth calendar day;

(C) Subject to subparagraph 3(g)(iv)(A) above, following the delivery of any such evidence by the Agent to the other Adhering Party, unless the other Adhering Party notifies the Agent to the contrary by the end of the fifteenth calendar day following the day on which such evidence is delivered, the Agent shall be deemed to have provided reasonable evidence satisfactory to the other Adhering Party at the end of that fifteenth calendar day;

(D) If: (I)

(I) following written request from the other Adhering Party, the Agent does not provide the other Adhering Party with any evidence supporting its authority to amend such documents or, if subparagraph 3(g)(iv)(A) above applies, with an additional copy of the relevant agreement or extracts, by the end of the fifteenth calendar day following such written request; or

(II) subject to subparagraph 3(g)(iv)(A) above, the other Adhering Party determines that the evidence provided by the Agent is not satisfactory and notifies the Agent accordingly by the end of the fifteenth calendar day following the day on which such evidence is delivered,

Then request for evidence and the Agent's right to provide such evidence and, in respect of any such evidence, subject to subparagraph 3(g)(iv)(C) above, the Non-Agent Executed Protocol Covered Document shall not be amended by this Protocol; and

(E) Any failure by the Agent to provide the other Adhering Party with such evidence shall not give rise to a Potential Event of Default or an Event of Default (each as defined in the ISDA Master Agreement), or any similar event, under that Non-Agent Executed Protocol Covered Document or other contractual right of action under this Protocol or that Non-Agent Executed Protocol Covered Document.

(v) If an Agent adheres to this Protocol and specifically names or identifies one or more Clients

(A) On whose behalf it is adhering (as contemplated in subparagraph 3(g)(i)(B) above), (B) which are excluded from adherence (as contemplated in subparagraph 3(g)(i)(C) above), and/or (C) on whose behalf it is amending Non-Agent Executed Protocol Covered Documents (as contemplated in subparagraph 3(g)(ii)(B)(II) above), as applicable, through a Platform, that Agent shall provide the legal entity identifier (LEI) of each such Client through such Platform.

(vi) If an Agent adheres to this Protocol on behalf of a Client by executing and delivering an Adherence Letter on behalf of such Client in accordance with paragraph 1 above and this paragraph 3(g), references to the Adhering Party for purposes of this Protocol (including the Attachment hereto) and the Adherence Letter shall be interpreted to refer to such Client. If, in respect of a Client, more than one Adherence Letter is accepted by ISDA in accordance with paragraph 1(b) above (by virtue of the Client adhering on its own behalf and one or more Agents adhering on behalf of that Client), then:

(A) If ISDA accepts an Adherence Letter from an Agent on behalf of a Client after it accepts an Adherence Letter from that Client, any document entered into by:

(I) That Agent acting on behalf of that Client; or

(II) If the Agent elects for Option 2 in its Adherence Letter, that Client on its own behalf but which the Agent has the authority from the relevant Client to amend, in each case, which has a Protocol Covered Document Date prior to:

(1) The Protocol Effective Date; or

(2) If later, the date of acceptance by ISDA, as agent, of an Adherence Letter from that Agent (or, if later, the date of acceptance by ISDA, as agent, of an Adherence Letter from the other Adhering Party), will be deemed to have ''a Protocol Covered Document Date prior to the Protocol Effective Date (or, if later, the date of acceptance by ISDA, as agent, of an Adherence Letter (in accordance with paragraph 1(b) above) from the later of the two Adhering Parties to adhere)'' for the purposes of the definitions of Protocol Covered Confirmation, Protocol Covered Credit Support Document and Protocol Covered Master Agreement below; and

(B) If ISDA accepts an Adherence Letter from a Client after it accepts an Adherence Letter from an Agent on behalf of that Client, any document entered into by the Client, whether directly or through the agency of an Agent, which has a Protocol Covered Document Date prior to:

(I) The Protocol Effective Date; or if later, the date of acceptance by ISDA, as agent, of an Adherence Letter from that Client (or, if later, the date of acceptance by ISDA, as agent, of an Adherence Letter from the other Adhering Party), will be deemed to have ''a Protocol Covered Document Date prior to the Protocol Effective Date (or, if later, the date of acceptance by ISDA, as agent, of an Adherence Letter (in accordance with paragraph 1(b) above) from the later of the two Adhering Parties to adhere)'' for the purposes of the definitions of Protocol Covered Confirmation, Protocol Covered Credit Support Document and Protocol Covered Master Agreement below.

(vii) If an Agent adheres to this Protocol on behalf of a Client, then as of the later of (A) the date on which such Agent adheres to this Protocol in accordance with paragraph 1 above and (B) the Protocol Covered Document Date, such Agent represents to each Adhering Party (I) with which it has entered into a Protocol Covered Document on behalf of such Client or (II) which is a party to any Non-Agent Executed Protocol Covered Document (which representation will be deemed to be repeated on the Protocol Effective Date and on the Implementation Date if one or both such dates are later than the date on which such Agent adheres to this Protocol) that it has, as at the relevant Implementation Date, all necessary authority to enter into the Adherence Letter on behalf of such Client. In respect of any Client referred to in paragraph 3(h), paragraph 3(i), paragraph 3(j) or paragraph 3(k) below, the Agent represents that it has, as at the relevant Implementation Date, all necessary authority to apply the terms of the Adherence Letter to such Client.

(h) *Clients Added to an Agent Protocol Covered Document after the date of acceptance by ISDA of an Adherence Letter from the later of the Agent and the other Adhering Party to adhere.*

(i) Subject to subparagraph 3(h)(ii) below, in respect of any Client added to an Agent Protocol Covered Document between an Agent and an Adhering Party after the date of acceptance by ISDA of an Adherence Letter (in accordance with paragraph 1(b) above) from the later of the Agent and the other Adhering Party to adhere (a New Client), the Agent and such Adhering Party agree that the terms of such Agent Protocol Covered Document as between such Adhering Party and any New Client will be subject to the amendments effected by this Protocol and as between the Adhering Party and the New Client the Implementation Date shall be the date on which the New Client is added to the Agent Protocol Covered Document, unless otherwise agreed between such Agent and such Adhering Party (which agreement may, if the Agent adheres to this Protocol using the approach in subparagraph 3(g)(i)(C) above, be reached by the Agent communicating to the other Adhering Party through a Platform, at the time the New Client is added to the Agent Protocol Covered Document, that the New Client is excluded from adherence).

(ii) If an Agent adheres to this Protocol using the approach described in subparagraph 3(g)(i)(B) above and therefore specifically names or identifies one or more Clients on whose behalf it is adhering, then in order for the terms of an Agent Protocol Covered Document as between an Adhering Party and any New Client to be subject to the amendments effected by this Protocol, the Agent shall communicate the identity of each New Client (including the legal entity identifier (LEI)) to the other Adhering Party which is a party to the Agent Protocol Covered Document to which the New Client is added through a Platform and, as between the other Adhering Party and that New Client, the Implementation Date shall be the date shown on the Platform as the date on which the Agent communicates the identity of that New Client to the other Adhering Party through that Platform.

(i) *Clients Added to an Agent's List of Identified In-Scope Clients after the date of Acceptance by ISDA of the Agent's Adherence Letter.* If an Agent adheres to this Protocol using the approach described in subparagraph 3(g)(i)(B) above and therefore specifically names or identifies one or more Clients on whose behalf it is adhering, then for the purposes of subparagraph 3(g)(ii)(A) or 3(g)(ii)(B)(I) above, as applicable, it may communicate the name or identity of additional Clients on whose behalf it is adhering (through a Platform) to another Adhering Party after the date of acceptance by ISDA, as agent, of its Adherence Letter and, as between that other Adhering Party and the additional Client, the Implementation Date shall be the date shown on the Platform as the date on which the Agent communicates the identity of that additional Client to the other Adhering Party through that Platform for those purposes (or, if later, the date of acceptance by ISDA, as agent, of an Adherence Letter from that other Adhering Party), unless otherwise agreed between such Agent and such Adhering Party.

(j) *Clients Removed from an Agent's List of Excluded Clients after the date of Acceptance by ISDA of the Agent's Adherence Letter.* If an Agent adheres to this Protocol using the approach described in subparagraph 3(g)(i)(C) above and therefore specifically names or identifies one or more Clients as excluded from adherence, then for the purposes of subparagraph 3(g)(ii)(A) or 3(g)(ii)(B)(I) above, as applicable, the Agent may, after the date of acceptance by ISDA, as agent, of its Adherence Letter, remove one or more of those Clients from its list of excluded Clients through a Platform and, as between any other Adhering Party and that Client, the Implementation Date shall be the date shown on the Platform as the date on which the Agent communicates to the other Adhering Party that the Client is removed from the list of excluded Clients (or, if later, the date of acceptance by ISDA, as agent, of an Adherence Letter from that other Adhering Party), unless otherwise agreed between such Agent and such Adhering Party.

(k) *Clients Added to an Agent's List of Clients in respect of which subparagraph 3(g)(ii)(B)(II) above applies.* If an Agent adheres to this Protocol, elects for Option 2 in its Adherence Letter and therefore specifically names or identifies one or more Clients in respect of which subparagraph 3(g)(ii)(B)(II) above applies, then it may name or identify additional Clients in respect of which subparagraph 3(g)(ii)(B)(II) above applies (through a Platform) after the date of acceptance by ISDA, as agent, of its Adherence Letter.

(l) *Authority to amend Non-Agent Executed Protocol Covered Documents.* If an Agent adheres to this Protocol and elects for Option 2 (as described in subparagraph 3(g)(ii) above), then, in respect of each Non-Agent Executed Protocol Covered Document, the Implementation Date shall be the day on

which the Agent is deemed to have provided evidence supporting the Agent's authority to amend such Non-Agent Executed Protocol Covered Document to the other Adhering Party pursuant to subparagraph 3(g)(iv) above and, for the purposes of subparagraph 3(g)(iii) above, with respect to such Non-Agent Executed Protocol Covered Documents only, the Agent's adherence will be deemed effective on that day.

(m) *Implementation Date if both an Agent and a Client adhere to this Protocol or if more than one Agent adheres for a Client.* If an Agent adheres to this Protocol and, in respect of a particular Client and a Protocol Covered Document into which the Agent has entered on behalf of that Client or a Non-Agent Executed Protocol Covered Document, there is, pursuant to the terms of this Protocol, more than one Implementation Date, then, notwithstanding any provision to the contrary in this Protocol, the Implementation Date shall be the first of those dates to occur.

(n) *Adhering Party that is an Agent with respect to a Protocol Covered Document.* An Adhering Party that executes a Protocol Covered Document (including an annex thereto) as agent with respect to that Protocol Covered Document, shall not for purposes of this Protocol be considered to be a party to or to have entered into such Protocol Covered Document solely by acting as agent with respect to that Protocol Covered Document except as expressly provided therein.

4. Definitions

References in this Protocol and the Attachment to the following terms shall have the following meanings:

Additional Credit Support Document means the documents (which, for the avoidance of doubt, shall be deemed to include any annexes or appendices thereto) set out in Part 2 of the Additional Documents Annex to this Protocol.

Additional Master Agreement means the documents (which, for the avoidance of doubt, shall be deemed to include any annexes or appendices thereto) set out in Part 1 of the Additional Documents Annex to this Protocol.

Adherence Letter has the meaning given to such term in the introductory paragraphs hereof.

Adhering Party has the meaning given to such term in the introductory paragraphs hereof, as construed in accordance with subparagraph 3(g)(vi) above where relevant.

Agent means an entity that enters into a Protocol Covered Document (or which has the authority to amend a Non-Agent Executed Protocol Covered Document) and executes and delivers an Adherence Letter with respect to this Protocol on behalf of, and as agent for, one or more Clients. With respect to paragraph 3(h) above, Agent also means an entity that enters into a Protocol Covered Document and executes and delivers an Adherence Letter pursuant to subparagraph 3(g)(i) above solely for purposes of amending such agreements to which New Clients may be added under paragraph 3(h) above.

Agent Protocol Covered Document means any Protocol Covered Document signed by the Agent on behalf of one or more Clients prior to the Protocol Effective Date (or, if later, the date of acceptance by ISDA, as agent, of an Adherence Letter (in accordance with paragraph 1(b) above) from the later of the Agent and the other Adhering Party to adhere), including any agreement that is signed as an umbrella agreement by an Agent and an Adhering Party prior to the Protocol Effective Date (or, if later, the date of acceptance by ISDA, as agent, of an Adherence Letter (in accordance with paragraph 1(b) above) from the later of the Agent and the other Adhering Party to adhere) which would be a Protocol Covered Document but for the absence of any underlying Client which is an Adhering Party.

Client means, with respect to an Agent, a client, investor, fund, account and/or other principal on whose behalf the Agent acts.

Confirmation means, in respect of a transaction, one or more documents or other confirming evidence exchanged between the parties or otherwise effective for the purpose of confirming or evidencing the transaction.

Covered ISDA Definitions Booklet means each of the 2006 ISDA Definitions, the 2000 ISDA Definitions, the 1998 ISDA Euro Definitions, the 1998 Supplement to the 1991 ISDA Definitions and the 1991 ISDA Definitions, each as published by ISDA.

Credit Support Document means, in respect of an Adhering Party and a Protocol Covered Document, any document in effect on the Implementation Date, which by its terms secures, guarantees or otherwise supports such Adhering Party's obligations under such Protocol Covered Document from time to time, whether or not such document is specified as such therein or in the Protocol Covered Document.

Cut-off Date has the meaning given to such term in paragraph 1(b) above.

IBOR Fallbacks Supplement has the meaning given to such term in the introductory paragraphs hereof.

Identification Date has the meaning given to such term in subparagraph 3(g)(ii)(B)(II) above.

Implementation Date has the meaning given to such term in subparagraph 1(c)(B) above.

ISDA has the meaning given to such term in the introductory paragraphs hereof.

ISDA Credit Support Document means each of the following documents:

(a) 1994 ISDA Credit Support Annex (Bilateral Form; ISDA Agreements Subject to New York Law Only);

(b) 1995 ISDA Credit Support Annex (Bilateral Form—Transfer; ISDA Agreements Subject to English law);

(c) 1995 ISDA Credit Support Deed (Bilateral Form—Security Interest; ISDA Agreements Subject to English Law);

(d) 1995 ISDA Credit Support Annex (Bilateral Form—Loan and Pledge; Security Interest Subject to Japanese Law);

(e) 1995 ISDA Credit Support Annex (Bilateral Form—Transfer; ISDA Agreement Subject to French Law);

(f) 1995 ISDA Credit Support Annex (Bilateral Form—Transfer; ISDA Agreement Subject to Irish Law);

(g) 2008 ISDA Credit Support Annex (Loan/Japanese Pledge);

(h) 2013 Standard Credit Support Annex (New York Law);

(i) 2013 Standard Credit Support Annex (English Law);

(j) 2014 Standard Credit Support Annex (New York Law—Multicurrency Settlement);

(k) 2014 Standard Credit Support Annex (English Law—Multicurrency Settlement);

(l) 2014 ISDA Korean Law Credit Support Annex (Bilateral Form—Loan and Pledge; Credit Support Annex Subject to Korean Law);

(m) 2016 Credit Support Annex for Variation Margin (VM) (Bilateral Form; ISDA Agreements Subject to New York Law Only), including any such form entered into between the Parties pursuant to the ISDA 2016 Variation Margin Protocol;

(n) 2016 Credit Support Annex for Variation Margin (VM) (Bilateral Form—Transfer; ISDA Agreements Subject to English Law), including any such form entered into between the Parties pursuant to the ISDA 2016 Variation Margin Protocol;

(o) 2016 Credit Support Annex for Variation Margin (VM) (Bilateral Form—Loan; ISDA Agreements Subject to Japanese Law), including any such form entered into between the Parties pursuant to the ISDA 2016 Variation Margin Protocol;

(p) 2016 Credit Support Annex for Variation Margin (VM) (Bilateral Form—Transfer; ISDA Agreements Subject to French Law); or

(q) 2016 Credit Support Annex for Variation Margin (VM) (Bilateral Form—Transfer; ISDA Agreements Subject to Irish Law).

ISDA Master Agreement means an ISDA 2002 Master Agreement, an ISDA 2002 Master Agreement (French law), an ISDA 2002 Master Agreement (Irish law), a 1992 ISDA Master Agreement (Multicurrency—Cross Border), a 1992 ISDA Master Agreement (Local Currency—Single Jurisdiction), a 1987 ISDA Interest Rate Swap Agreement or a 1987 ISDA Interest Rate and Currency Exchange Agreement, in each case as published by ISDA.

Master Agreement means an agreement which may be an ISDA Master Agreement or an Additional Master Agreement that has been entered into (a) by execution by the parties thereto (whether directly or through the agency of an Agent) or (b) by execution by the parties thereto (whether directly or through the agency of an Agent) of a Confirmation pursuant to which a party is deemed to have entered into an ISDA Master Agreement or an Additional Master Agreement with the other party.

New Client has the meaning given to such term in paragraph 3(h)(i) above.

Non-Agent Executed Protocol Covered Documents has the meaning given to such term in subparagraph 3(g)(ii)(B)(II) above.

Platform has the meaning given to such term in paragraph 3(g)(i)(A) above.

Protocol has the meaning given to such term in the introductory paragraphs hereof.

Protocol Business Day means a day following the Protocol Effective Date on which commercial banks and foreign exchange markets are generally open to settle payments in both London and New York.

Protocol Covered Confirmation means, subject to subparagraph 3(g)(vi) above, a

Confirmation which is entered into between two Adhering Parties (whether directly or through the agency of an Agent and, if through the agency of an Agent, whether executed by that Agent or by an entity on behalf of that Agent), has a Protocol Covered Document Date prior to the Protocol Effective Date (or, if later, the date of acceptance by ISDA, as agent, of an Adherence Letter (in accordance with paragraph 1(b) above) from the later of the two Adhering Parties to adhere) and:

(a) supplements, forms part of and is subject to, or is otherwise governed by, a Master Agreement and incorporates a Covered ISDA Definitions Booklet;

(b) supplements, forms part of and is subject to, or is otherwise governed by, a Master Agreement and references a Relevant IBOR ''as defined'' in, or otherwise provides that the Relevant IBOR has the meaning given in, a Covered ISDA Definitions Booklet (regardless of whether such Covered ISDA Definitions Booklet is incorporated in full in that Confirmation); and/or

(c) supplements, forms part of and is subject to, or is otherwise governed by, a Master Agreement and references a Relevant IBOR, howsoever defined.

Protocol Covered Credit Support Document [1] means, subject to subparagraph 3(g)(vi) above, any ISDA Credit Support Document or Additional Credit Support Document which is entered into between two Adhering Parties (whether directly or through the agency of an Agent and, if through the agency of an Agent, whether executed by that Agent or by an entity on behalf of that Agent), has a Protocol Covered Document Date prior to the Protocol Effective Date (or, if later, the date of acceptance by ISDA, as agent, of an Adherence Letter (in accordance with paragraph 1(b) above) from the later of the two Adhering Parties to adhere) and:

(a) Incorporates a Covered ISDA Definitions Booklet;

(b) References a Relevant IBOR ''as defined'' in, or otherwise provides that the Relevant IBOR has the meaning given in, a Covered ISDA Definitions Booklet (regardless of whether such Covered ISDA Definitions Booklet is incorporated in full in that ISDA Credit Support Document or Additional Credit Support Document); and/or

(c) References a Relevant IBOR, howsoever defined.

[1] Note that the parties to any credit support document that is amended by the Protocol should consider whether they need to take any steps to reconfirm or retake any security or otherwise satisfy any formalities under or in connection with the relevant credit support document as a result of the amendment made by the Protocol.

Protocol Covered Document Date means, in respect of any document, the date of such document, howsoever described therein, provided that (a) if such document has different dates specified therein, one of which includes a date specified as an ''as of'' date, such date shall be the Protocol Covered Document Date, and (b) if such document is a Confirmation (other than a master confirmation agreement, including any related general terms confirmation), the Protocol Covered Document Date shall be the Trade Date.

Protocol Covered Documents means Protocol Covered Confirmations, Protocol Covered Master Agreements and Protocol Covered Credit Support Documents, other than any such documentation governing cleared transactions (including any transactions that are ''Client Transactions'' (or in substance equivalent) under a 2016 ISDA/FIA Client Cleared OTC Derivatives Addendum or any agreement that in substance relates to the same matters as those contemplated by the 2016 ISDA/FIA Client Cleared OTC Derivatives Addendum between a clearing member and its client).

Protocol Covered Master Agreement means, subject to subparagraph 3(g)(vi) above, a Master Agreement which is entered into (or deemed entered into) between two Adhering Parties (whether directly or through the agency of an Agent and, if through the agency of an Agent, whether executed by that Agent or by an entity on behalf of that Agent), has a Protocol Covered Document Date prior to the Protocol Effective Date (or, if later, the date of acceptance by ISDA, as agent, of an Adherence Letter (in accordance with paragraph 1(b) above) from the later of the two Adhering Parties to adhere) and:

(a) Incorporates a Covered ISDA Definitions Booklet;

(b) References a Relevant IBOR ''as defined'' in, or otherwise provides that the Relevant IBOR has the meaning given in, a Covered ISDA Definitions Booklet (regardless of whether such Covered ISDA Definitions Booklet is incorporated in full in that Master Agreement); and/or

(c) References a Relevant IBOR, howsoever defined.

Protocol Effective Date has the meaning given to such term in subparagraph 1(c)(A) above.

Relevant IBOR means:

(a) Any of sterling LIBOR (London interbank offered rate), Swiss franc LIBOR (London interbank offered rate), U.S. dollar LIBOR (London interbank offered rate), euro LIBOR (London interbank offered rate), the euro interbank offered rate, Japanese yen LIBOR (London interbank offered rate), the Japanese yen Tokyo interbank offered rate, the euroyen Tokyo interbank offered rate, the bank bill swap rate, the Canadian dollar offered rate, the Hong Kong interbank offered rate, the Singapore dollar swap offer rate and the Thai baht interest rate fixing; and

(b) LIBOR (London interbank offered rate) with no reference to, or indication of, the currency of the relevant LIBOR (London interbank offered rate) (including, for the avoidance of doubt, the reference in Section 7.3 (*Corrections to Published Prices*) of the 2005 ISDA Commodity Definitions to ''the spot offered rate for deposits in the payment currency in the London interbank market as at approximately 11:00 a.m., London time''), in each case, howsoever defined or described (whether in English or in any other language) in the relevant Protocol Covered Document.

Revocation Date means, with respect to a Revocation Notice and an Adhering Party, the last Protocol Business Day of the calendar month following the calendar month in which that Revocation Notice is effectively delivered by that Adhering Party to ISDA.

Revocation Notice has the meaning given to such term in paragraph 1(e) above.

Third Party means, in relation to an agreement supported by a Third Party Credit Support Document, any party to such Third Party Credit Support Document other than either of the Adhering Parties which are parties to the agreement.

Third Party Credit Support Document means, with respect to an Adhering Party and a Protocol Covered Document, any Credit Support Document which is executed by one or more Third Parties (whether or not an Adhering Party is a party thereto), whether or not such document is specified as a Third Party Support Document or as a Credit Support Document therein or in the Protocol Covered Document.

Trade Date means, in respect of a Protocol Covered Confirmation (other than a master confirmation agreement, including any related general terms confirmation), the date on which the parties enter into the related transaction.

Exhibit 1 to the ISDA 2020 IBOR Fallbacks Protocol

Form of Adherence Letter

[Letterhead of Adhering Party]

[Date]

International Swaps and Derivatives Association, Inc.

Ladies and Gentlemen,

ISDA 2020 IBOR Fallbacks Protocol

The purpose of this letter is to confirm our adherence to the ISDA 2020 IBOR Fallbacks Protocol as published by the International Swaps and Derivatives Association, Inc. (ISDA) on October 23, 2020 (the Protocol). By submitting this Adherence Letter, we confirm that we are an Adhering Party to the Protocol. This letter constitutes, as between each other Adhering Party and us, an Adherence Letter as referred to in the Protocol. The definitions and provisions contained in the Protocol are incorporated into this Adherence Letter, which will supplement and form part of each Protocol Covered Document between us and each other Adhering Party.

1. Specified Terms for Adhering Party as Principal

As between each Adhering Party and us, we acknowledge and agree that the amendments in the Attachment to the Protocol shall apply to each Protocol Covered Document to which we are a party in accordance with the terms of the Protocol and this Adherence Letter.

2. Appointment as Agent and Release

We hereby appoint ISDA as our agent for the limited purposes of the Protocol and accordingly we waive any rights and hereby release ISDA from any claims, actions or causes of action whatsoever (whether in contract, tort or otherwise) arising out of or in any way relating to this Adherence Letter or our adherence to the Protocol or any actions contemplated as being required by ISDA.

3. Arbitration Agreement and Class Action Waiver

By adhering to the Protocol, we agree that all claims or disputes arising out of or in connection with adherence to the Protocol shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce (the Rules) by three arbitrators, and hereby waive any right to assert any such claims or disputes against ISDA as a representative or member in any class or representative action. The claimant(s) (as defined in the Rules) shall nominate one arbitrator in the 'Request for Arbitration'. The respondent(s) (as defined in the Rules) shall nominate one arbitrator in the 'Answer to the Request'. The two party-nominated arbitrators shall then have 30 days to agree, in consultation with the parties to the arbitration, upon the nomination of a third arbitrator to act as president of the tribunal, barring which the International Chamber of Commerce Court shall select the third arbitrator (or any arbitrator that claimant(s) or respondent(s) shall fail to nominate in accordance with the foregoing). This agreement to arbitrate shall not be affected by the Revocation Notice as described in the Protocol.

4. Payment

Each Adhering Party or, if such Adhering Party is a Client on whose behalf an Agent adheres to this Protocol, each Agent, that is classified by ISDA for purposes of membership of ISDA as an ''ISDA Primary Member'' must submit a one-time fee of U.S. $500 to ISDA at or before the submission of this Adherence Letter. Each Adhering Party or, if such Adhering Party is a Client on whose behalf an Agent adheres to this Protocol, each Agent, which is not an ''ISDA Primary Member'' is not required to submit a fee to ISDA if this Adherence Letter is submitted prior to the Protocol Effective Date. If an Adhering Party or, if such Adhering Party is a Client on whose behalf an Agent adheres to this Protocol, an Agent, which is not an ''ISDA Primary Member'' submits this Adherence Letter on or after the Protocol Effective Date, such Adhering Party or Agent (as applicable) must submit a one-time fee of U.S. $500 to ISDA at or before the submission of this Adherence Letter.

5. Contact Details

Our contact details for purposes of this Adherence Letter are:

Name:
Company Name:
Address:
Phone:
Fax:
Email:

We consent to the publication of a conformed copy of this letter by ISDA and to the disclosure by ISDA of the contents of this letter.

Yours faithfully,

[ADHERING PARTY][2]

By:

Name:

Title:

[2] Note 2: Specify legal name of Adhering Party.

If you are an Agent, you may sign the Adherence Letter using one of the options below. Please note that, if you would like to adhere on behalf of yourself, as principal, and also on behalf of your Clients, as Agent, you must submit one adherence letter for yourself, as principal, and a second adherence letter on behalf of your Clients, as Agent, in the latter case, in accordance with one of the options set out below.

First, if you have the authority to adhere to this Protocol as Agent on behalf of all Clients, you may indicate the following in the signature block: ''acting on behalf of [(a)] each fund, account or other principal (each, a ''Client'') on whose behalf we have entered, or will enter, into a Protocol Covered Document and any New Clients added to an Agent Protocol Covered Document in the future [and (b) in respect of any Non-Agent Executed Protocol Covered Documents, each Client which we name or identify through a Platform as being a Client in respect of which subparagraph 3(g)(ii)(B)(II) of the Protocol applies]''. If such a signature block is used, a separate Adherence Letter for each Client does not need to be submitted to ISDA and no specific names of Clients must be identified through a Platform (except if you elect for Option 2 in this Adherence Letter, in which case the Clients on whose behalf you are amending Non-Agent Executed Protocol Covered Documents should be identified through such Platform; you will be responsible for identifying such Clients and providing their LEIs. If you cannot or do not wish to name such Clients, then provided that you can identify the Clients by way of LEIs, you may identify such Clients using LEIs and without including any names). If you do not elect for Option 2 in this Adherence Letter, you should delete the wording in square brackets in the signature block.

Second, if you adhere to this Protocol as an agent on behalf of certain Clients only by specifically identifying such Clients, you may indicate the following in the signature block: ''acting on behalf of [(a)] each fund, account or other principal (each a ''Client'') which we name or identify through a Platform as being a Client on whose behalf we have entered, or will enter, into a Protocol Covered Document and any New Clients added to an Agent Protocol Covered Document and identified through a Platform as a New Client [and (b) in respect of any Non-Agent Executed Protocol Covered Documents, each Client which we name or identify through a Platform as being a Client in respect of which subparagraph 3(g)(ii)(B)(II) of the Protocol applies]''. You will be responsible for identifying any Clients on whose behalf you have entered into, or will enter into, a Protocol Covered Document, any New Clients and any Clients on whose behalf you amend Non-Agent Executed Protocol Covered Documents and, in each case, providing their LEIs. If you cannot or do not wish to name such Clients, then provided that you can identify the Clients by way of LEIs, you may identify such Clients using LEIs and without including any names. If you do not elect for Option 2 in this Adherence Letter, you should delete the wording in square brackets in the signature block.

Third, if you adhere to this Protocol as an agent on behalf of certain Clients only by excluding certain Clients, you may indicate the following in the signature block: ''acting on behalf of [(a)] each fund, account or other principal (each, a ''Client'') on whose behalf we have entered, or will enter, into a Protocol Covered Document (except for those Clients which we identify through a Platform as excluded from adherence) and any New Clients added to an Agent Protocol Covered Document (except for any New Clients which we identify through a Platform as excluded from adherence) [and (b) in respect of any Non-Agent Executed Protocol Covered Documents, each Client which we name or identify through a Platform as being a Client in respect of which subparagraph 3(g)(ii)(B)(II) of the Protocol applies]''. You will be responsible for identifying any excluded Clients and any Clients on whose behalf you amend Non-Agent Executed Protocol Covered Documents and, in each case, for providing their LEIs. If you cannot or do not wish to name those excluded Clients or those Clients on whose behalf you are amending Non-Agent Executed Protocol Covered Documents, then provided that you can identify them by way of LEIs, you may identify those Clients using LEIs and without including any names. If you do not elect for Option 2 in this Adherence Letter, you should delete the wording in square brackets in the signature block.

Fourth, if you adhere to this Protocol as an agent on behalf of no current Clients, you may indicate the following in the signature block: ''acting to amend each Protocol Covered Document (or other agreement which deems a Protocol Covered Document to have been created) between it (as agent) and each Adhering Party, with respect to New Clients.''

Specified Terms for Adhering Party as Agent [3]

The election for Option 1 or Option 2 below should only be made by an Agent. Any entity which adheres to the Protocol and which is not acting as an Agent should not complete the election below.

As between each Adhering Party and us, we acknowledge and agree that the amendments in the Attachment to the Protocol shall apply to each:

Option 1

☐ Protocol Covered Document into which we have entered on behalf of one or more Clients covered in accordance with the terms of the Protocol and this Adherence Letter (as contemplated by Option 1 in the Protocol); or

Option 2

☐ Protocol Covered Document into (i) which we have entered on behalf of one or more Clients covered in accordance with the

terms of the Protocol and this Adherence Letter and (ii) which we did not enter on behalf of one or more Clients but which we otherwise have the authority from the relevant Client to amend in accordance with and subject to the terms of the Protocol and this Adherence Letter (as contemplated by Option 2 in the Protocol).

We agree, in our capacity as Agent for the relevant Client(s), to provide each other Adhering Party, as soon as reasonably practicable following such other Adhering Party's written request (including by email), and in any event by no later than the end of the fifteenth calendar day following such request (and as required by and in accordance with subparagraph 3(g)(iv) of the Protocol), with reasonable evidence satisfactory to such other Adhering Party in its sole discretion supporting our authority to amend any Protocol Covered Document into which we did not enter on behalf of one or more Clients (whose name or identity we communicate to the other Adhering Party through a Platform as being a Client in respect of which subparagraph 3(g)(ii)(B)(II) of the Protocol applies).

Failure to provide an Adhering Party with such evidence shall (unless the Agent is deemed to have provided such evidence, pursuant to subparagraph 3(g)(iv) of the Protocol), only in respect of those Non-Agent Executed Protocol Covered Documents between the relevant Client(s) and such Adhering Party, result in this Adherence Letter being ineffective unless and until we, in our capacity as Agent for the relevant Client(s), are deemed to have provided that Adhering Party with such evidence pursuant to subparagraph 3(g)(iv) of the Protocol. Failure to provide an Adhering Party with such evidence shall not give rise to a Potential Event of Default or an Event of Default (each as defined in the ISDA Master Agreement), or any similar event, under those Protocol Covered Documents or other contractual right of action under this Protocol or those Protocol Covered Documents.

Note 3: The descriptions of Option 1 and Option 2 in this Adherence Letter and of related provisions within the Protocol are intended for convenience of reference only. Adhering Parties should read the provisions of the Protocol before submitting an Adherence Letter. In the event of any inconsistency between the descriptions of Option 1 and Option 2 and related provisions in this Adherence Letter and the provisions of the Protocol, the provisions of the Protocol shall take precedence.

EXHIBIT 2 to the ISDA 2020 IBOR Fallbacks Protocol

Form of Revocation Notice

[Letterhead of Adhering Party]

[Date]

International Swaps and Derivatives Association, Inc. Send to: *isda@isda.org*

Ladies and Gentlemen,

ISDA 2020 IBOR Fallbacks Protocol—Designation of a Revocation Date

The purpose of this letter is to notify you that we wish to designate a Revocation Date as the last date on which an Implementation Date can occur pursuant to the terms of the ISDA 2020 IBOR Fallbacks Protocol as published by the International Swaps and Derivatives Association, Inc. (ISDA) on October 23, 2020 (the Protocol) in respect of any Protocol Covered Document between us and any other Adhering Party.

This letter constitutes a Revocation Notice as referred to in the Protocol.

We consent to the publication of the conformed copy of this notice by ISDA on and after the Revocation Date and to the disclosure by ISDA of the contents of this letter.

Yours faithfully,

[ADHERING PARTY][4]

By:

Name: _____

Title: _____

Signature: _____

Note 4: Specify legal name of Adhering Party.

If you are an Agent and act on behalf of multiple Clients, you may sign a Revocation Notice using one of the methods below. Alternatively, you may submit one Revocation Notice per Client.

First, if you have the authority to deliver a Revocation Notice for this Protocol as Agent on behalf of all Clients, you may indicate the following in the signature block: ''acting on behalf of each fund, account or other principal (each, a ''Client'') represented by us (as agent)'' or such other language which indicates the Clients to which this letter is applicable. If such a signature block is used, a separate Revocation Notice for each Client does not need to be submitted to ISDA and no specific names of Clients must be identified in the Revocation Notice.

Second, if you have the authority to deliver a Revocation Notice for this Protocol as Agent on behalf of certain Clients only, you may indicate the following in the signature block: ''acting on behalf of each fund, account or other principal (each, a ''Client'') represented by us (as agent) identified in the Revocation Notice or an appendix thereto''. If you cannot or do not wish to name such Clients, then provided that you can identify the revoking Clients by way of specific identifiers which will be known and recognized by allAdhering Parties with which the relevant Clients have entered into Confirmations, Master Agreements and/or credit support documents, you may identify such revoking Clients using specific identifiers and without including any names.

Paragraph 1(e) of the Protocol sets out the consequences of a Revocation Notice where an Agent adheres to the Protocol on behalf of a Client.

ANNEX to the ISDA 2020 IBOR Fallbacks Protocol

Additional Documents Annex

Part 1: Additional Master Agreements

(a) 2001 FBF Master Agreement relating to Transactions on Forward Financial Instruments.

(b) 2007 FBF Master Agreement relating to Transactions on Forward Financial Instruments.

(c) 2013 FBF Master Agreement relating to Transactions on Forward Financial Instruments.

(d) 1994 AFB Master Agreement for Foreign Exchange and Derivatives Transactions.

(e) 1997 AFTI/FBF Master Agreement for Loans of Securities.

(f) 2007 AFTI/FBF Master Agreement for Loans of Securities.

(g) 2007 FBF Master Agreement for Repurchase Transactions.

(h) 1994 AFTB Master Agreement for Repurchase Transactions with Delivery of Securities.

(i) Execution Annex with respect to the AFB/FBF 1994/2001/2007/2013 Master Agreements.

(j) 1997 Spanish Master Agreement (Contrato Marco de Operaciones Financieras or CMOF) published by Asociación Española de Banca (Spanish Banking Association) and Confederación Española de Cajas de Ahorros (Spanish Confederation of Savings Banks).

(k) Annex III to the 1997 Spanish Master Agreement (Contrato Marco de Operaciones Financieras or CMOF) published by Asociación Española de Banca (Spanish Banking Association) and Confederación Española de Cajas de Ahorros (Spanish Confederation of Savings Banks).

(l) 2009 Spanish Master Agreement (Contrato Marco de Operaciones Financieras or CMOF) published by Asociación Española de Banca (Spanish Banking Association) and Confederación Española de Cajas de Ahorros (Spanish Confederation of Savings Banks).

(m) Annex III to the 2009 Spanish Master Agreement (Contrato Marco de Operaciones Financieras or CMOF) published by Asociación Española de Banca (Spanish Banking Association) and Confederación Española de Cajas de Ahorros (Spanish Confederation of Savings Banks).

(n) 2013 Spanish Master Agreement (Contrato Marco de Operaciones Financieras or CMOF) published by Asociación Española de Banca (Spanish Banking Association) and Confederación Española de Cajas de Ahorros (Spanish Confederation of Savings Banks).

(o) Annex III to the 2013 Spanish Master Agreement (Contrato Marco de Operaciones Financieras or CMOF) published by Asociación Española de Banca (Spanish Banking Association) and Confederación Española de Cajas de Ahorros (Spanish Confederation of Savings Banks).

(p) 2003 Swiss Master Agreement for OTC Derivative Instruments published by the Swiss Bankers Association.

(q) 2013 Swiss Master Agreement for OTC Derivative Instruments published by the Swiss Bankers Association (for use in connection with certain ISDA definitions).

(r) 2013 Swiss Master Agreement for OTC Derivative Instruments published by the Swiss Bankers Association (non-ISDA version not for use in connection with any ISDA definitions).

(s) 1999 Bilateral Swiss Master Agreement for Repo Transactions published by the Swiss Bankers Association.

(t) 1999 Multilateral Swiss Master Agreement for Repo Transactions published by the Swiss Bankers Association.

(u) 2011 Swiss Master Agreement for Securities Lending and Borrowing prepared by the Swiss Bankers Association.

(v) 2001 Master Agreement for Financial Transactions sponsored by the Banking Federation of the European Union (EBF or FBE) in cooperation with the European Savings Banks Group (ESBG) and the European Association of Cooperative Banks (EACB).

(w) 2004 Master Agreement for Financial Transactions sponsored by the Banking Federation of the European Union (EBF or FBE) in cooperation with the European Savings Banks Group (ESBG) and the European Association of Cooperative Banks (EACB).

(x) 2020 Master Agreement for Financial Transactions sponsored by the Banking Federation of the European Union (EBF or FBE) in cooperation with the European Savings Banks Group (ESBG) and the European Association of Cooperative Banks (EACB).

(y) Austrian Master Agreement for Financial Transactions (Österreichischer Rahmenvertrag für Finanztermingeschäfte or ÖRV).

(z) 1997 International Foreign Exchange and Options Master Agreement (FEOMA).

(aa) 1993 International Foreign Exchange Master Agreement (IFEMA).

(bb) 1997 International Foreign Exchange Master Agreement (IFEMA).

(cc) 1997 International Currency Options Market (ICOM) Master Agreement.

(dd) 2005 International Foreign Exchange and Currency Option Master Agreement (IFXCO).

(ee) 1992 PSA/ISMA Global Master Repurchase Agreement (GMRA).

(ff) 1995 PSA/ISMA Global Master Repurchase Agreement (GMRA).

(gg) 2000 TBMA/ISMA Global Master Repurchase Agreement (GMRA).

(hh) 2011 SIFMA/ICMA Global Master Repurchase Agreement (GMRA).

(ii) 2000 ISLA Global Master Securities Lending Agreement (GMSLA).

(jj) 2010 ISLA Global Master Securities Lending Agreement (GMSLA).

(kk) 2018 ISLA Global Master Securities Lending Agreement (GMSLA)—Security Interest over Collateral.

(ll) 1993 TBMA/SIA Master Securities Loan Agreement (MSLA).

(mm) 2000 TBMA/SIA Master Securities Loan Agreement (MSLA).

(nn) 2017 SIFMA Master Securities Loan Agreement (MSLA).

(oo) 1987 PSA Master Repurchase Agreement (MRA).

(pp) 1996 TBMA Master Repurchase Agreement (MRA).

(qq) 2000 SIFMA Master OTC Options Agreement.

(rr) 1989 TBMA Master Dealer Agreement, OTC Option Transaction—U.S. Treasury Securities.

(ss) Emissions Master LF–IETA Master Agreement.

(tt) WSPP Agreement.

(uu) 2004 FIA Grid Trade Master Agreement.

(vv) EEI Master Power Purchase & Sale Agreement. (ww)

EL Master—Electricity Power Master Agreement.

(xx) 1994 LBMA/FEC International Bullion Master Agreement (English law version).

(yy) 1994 LBMA/FEC International Bullion Master Agreement (New York law version).

(zz) 1997 ASLA Australian Master Securities Lending Agreement (AMSLA).

(aaa) 2002 ASLA Australian Master Securities Lending Agreement (AMSLA).

(bbb) 2003 ASLA Australian Master Securities Lending Agreement (AMSLA).

(ccc) GISB Base Short-Term Contract for Sale and Purchase of Natural Gas.

(ddd) NAESB Base Contract for Sale and Purchase of Natural Gas.

(eee) 1996 Master Gilt Edged Stock Lending Agreement (GESLA).

(fff) 1996 Master Equity and Fixed Interest Stock Lending Agreement (MEFISLA).

(ggg) 1994 Equity and Fixed Interest Stock Lending (Agency) Agreement.

(hhh) 1994 Overseas Securities Lender's Agreement (OSLA).

(iii) 1995 Overseas Securities Lender's Agreement (OSLA).

(jjj) globalCOAL Standard Coal Trading Agreement (SCoTA).

(kkk) KOFIA Agreement on Margin Transactions.

(lll) KOFIA Agreement on Foreign Exchange Margin Trading.

(mmm) KOFIA Agreement on Securities Lending and Borrowing.

(nnn) KOFIA Agreement on Repurchase Agreement (Repo) between Institutions.

(ooo) KOFIA Agreement on Repurchase Agreement (Repo) with Customers.

(ppp) KOFIA best practice Korean language agreement template for OTC derivatives.

(qqq) Investment Industry Regulatory Organization of Canada (IIROC) Repurchase/Reverse Repurchase Transaction Agreement.

(rrr) Master Agreement Concerning Stock Lending Transactions (*kabuken tou taishaku torihiki ni kansuru kihon keiyakusho*) (including without limitation separate agreements to be executed pursuant to or in connection with that Master Agreement such as Supplemental Memorandum of Understanding (*kabuken tou taishaku torihiki ni kansuru kihon keiyakusho fuzoku oboegaki*)) published by Japan Securities Dealers Association.

(sss) Master Agreement Concerning Bond Lending Transactions (*saiken taishaku torihiki ni kansuru kihon keiyakusho*) (including without limitation separate agreements to be executed pursuant to or in connection with that Master Agreement such as Supplemental Memorandum of Understanding (*saiken taishaku torihiki ni kansuru kihon keiyakusho fuzoku oboegaki*)) published by Japan Securities Dealers Association.

(ttt) Master Agreement Concerning Bond Repo Transactions (*saiken tou no gensaki torihiki ni kansuru kihon keiyakusho*) (including without limitation separate agreements to be executed pursuant to or in connection with that Master Agreement such as Supplemental Memorandum of Understanding (*saiken tou no gensaki torihiki ni kansuru kihon keiyakusho fuzoku oboegaki*)) published by Japan Securities Dealers Association.

(uuu) Mexican Master Derivatives Agreement (Contrato Marco para Operaciones Financieras Derivadas) published by Asociación de Bancos de Mexico (ABM) y Asociación Mexicana de Instituciones Bursatiles (AMIB).

(vvv) Mexican Master Securities Purchase and Sale/Repo Agreement (Contrato Marco para Operaciones de Compraventa de Valores y Reporto) published by Asociación de Bancos de Mexico (ABM) y Asociación Mexicana de Instituciones Bursatiles (AMIB).

Part 2: Additional Credit Support Documents

(a) 2007 FBF Collateral Annex.

(b) 1997 ABF Collateral Annex.

(c) AFB/FBF Addendum to the ISDA 2016 Credit Support Annex for Variation Margin (VM).

(d) 2008 Credit Support Appendix to the Swiss Master Agreement for OTC Derivative Instruments published by the Swiss Bankers Association.

(e) 2015 Credit Support Appendix to the Swiss Master Agreement for OTC Derivative Instruments published by the Swiss Bankers Association.

(f) Credit Support Appendix for Variation Margin to the Swiss Master Agreement for OTC Derivative Instruments published by the Swiss Bankers Association.

(g) Mexican Credit Support Agreement related to Derivatives (Contrato Global para Otorgar Garantías respecto de Operaciones Financieras Derivadas) published by Asociación de Bancos de Mexico (ABM) y Asociación Mexicana de Instituciones Bursatiles (AMIB).

Attachment to the ISDA 2020 IBOR Fallbacks Protocol

1. Amendments to Protocol Covered Documents Incorporating the 2006 ISDA Definitions

If a Protocol Covered Document incorporates the 2006 ISDA Definitions, the version of the 2006 ISDA Definitions so incorporated shall be amended in accordance with the terms of the IBOR Fallbacks Supplement (and, if that Protocol Covered Document is a Protocol Covered Master Agreement, any reference to a term defined in the 2006 ISDA Definitions in a Confirmation which supplements, forms part of and is subject to that Protocol Covered Master Agreement will be a reference to the term as defined in the 2006 ISDA Definitions as amended in accordance with the IBOR Fallbacks Supplement).

2. Amendments to Protocol Covered Documents Incorporating the 2000 ISDA Definitions

If a Protocol Covered Document incorporates the 2000 ISDA Definitions, the version of the 2000 ISDA Definitions so incorporated shall be amended in accordance with the terms of the IBOR Fallbacks Supplement (and, if that Protocol Covered Document is a Protocol Covered Master Agreement, any reference to a term defined in the 2000 ISDA Definitions in a Confirmation which supplements, forms part of and is subject to that Protocol Covered Master Agreement will be a reference to the

term as defined in the 2000 ISDA Definitions as amended in accordance with the IBOR Fallbacks Supplement), provided that the IBOR Fallbacks Supplement shall be deemed amended as follows:

(a) Each of the following sections shall be deleted:

(i) ''*GBP–LIBOR–BBA-Bloomberg*'';

(ii) ''*CHF–LIBOR–BBA-Bloomberg*'';

(iii) ''*USD–LIBOR–BBA-Bloomberg*'';

(iv) ''*EUR–LIBOR–BBA-Bloomberg*'';

(v) ''*JPY–LIBOR–FRASETT*'';

(vi) ''*JPY–LIBOR–BBA-Bloomberg*'';

(vii) ''*JPY–TIBOR–TIBM-(All Banks)-Bloomberg*'';

(viii) ''*AUD–BBR–BBSW-Bloomberg*'';

(ix) ''*CAD–BA–CDOR-Bloomberg*''; and

(x) ''*HKD–HIBOR–HKAB-Bloomberg*'';

(b) The section titled ''*EUR–EURIBOR-Reuters*'' will be re-titled ''*EUR–EURIBOR-Telerate*'' and references in such section (or in related sections) to ''EUR–EURIBOR-Reuters'' will be deleted and replaced with ''EUR–EURIBOR-Telerate'';

(c) The section titled ''*AUD–BBR–AUBBSW*'' will be re-titled ''*AUD–BBR–ISDC*'' and references in such section (or in related sections) to ''AUD–BBR–AUBBSW'' will be deleted and replaced with ''AUD-BBR–ISDC'';

(d) The section titled ''*SGD–SOR–VWAP*'' will be re-titled ''*SGD–SOR-Telerate*'' and references in such section (or in related sections) to ''SGD–SOR–VWAP'' will be deleted and replaced with ''SGD–SOR-Telerate'';

(e) Tn the section titled ''*THB–THBFIX-Reuters*'', the paragraph entitled ''*No Index Cessation Effective Date*'' shall be deemed amended as follows:

(i) The words ''THB–THBFIX-Reference Banks'' as the applicable Floating Rate Option'' will be deleted and replaced with the words ''''THB–SOR-Reference Banks'' as the applicable Floating Rate Option, but with the following variations:'' and subparagraphs (a), (b) and (c) of Section 7.1(z)(iii) of the 2000 ISDA Definitions will be inserted immediately thereafter; and

(ii) The last sentence in that paragraph will be deleted; and

(f) All references to section numbers within the 2006 ISDA Definitions will be deemed to be references to the equivalent sections within the 2000 ISDA Definitions.

3. Amendments to Protocol Covered Documents Incorporating the 1991 ISDA Definitions and/or the 1998 Supplement to the 1991 ISDA Definitions

If a Protocol Covered Document incorporates the 1991 ISDA Definitions and/or the 1998 Supplement to the 1991 ISDA Definitions, the version of the 1991 ISDA Definitions and/or the 1998 Supplement to the 1991 ISDA Definitions (as applicable) so incorporated shall be amended in accordance with the terms of the IBOR Fallbacks Supplement (and, if that Protocol Covered Document is a Protocol Covered Master Agreement, any reference to a term defined in the 1991 ISDA Definitions and/or the 1998 Supplement to the 1991 ISDA Definitions in a Confirmation which supplements, forms part of and is subject to that Protocol Covered Master Agreement will be a reference to the term as defined in the 1991 ISDA Definitions and/or the 1998 Supplement to the 1991 ISDA Definitions as amended in accordance with the IBOR Fallbacks Supplement), provided that the IBOR Fallbacks Supplement shall be deemed amended as follows:

(a) If the Protocol Covered Document incorporates the 1991 ISDA Definitions only, the 1991 ISDA Definitions as supplemented by the 1998 Supplement to the 1991 ISDA Definitions or the 1998 Supplement to the 1991 ISDA Definitions only, each of the following sections shall be deleted:

(i) ''*GBP–LIBOR–BBA-Bloomberg*'';

(ii) ''*CHF–LIBOR–BBA-Bloomberg*'';

(iii) ''*USD–LIBOR–BBA-Bloomberg*'';

(iv) ''*EUR–LIBOR–BBA-Bloomberg*'';

(v) ''*EUR–EURIBOR-Reuters*'';

(vi) ''*JPY–LIBOR–FRASETT*'';

(vii) ''*JPY–LIBOR–BBA-Bloomberg*'';

(viii) ''*JPY–TIBOR–17097*'';

(ix) ''*JPY–TIBOR–TIBM-(All Banks)-Bloomberg*'';

(x) ''*AUD–BBR–BBSW-Bloomberg*'';

(xi) ''*CAD–BA–CDOR-Bloomberg*'';

(xii) ''*HKD–HIBOR–HKAB-Bloomberg*''; and

(xiii) ''*THB–THBFIX-Reuters*'';

(b) If the Protocol Covered Document incorporates the 1991 ISDA Definitions only, each of the following sections shall be deleted:

(i) ''*JPY–TIBOR–ZTIBOR*''; and

(ii) ''*SGD–SOR–VWAP*'';

(c) If the Protocol Covered Document incorporates the 1991 ISDA Definitions as supplemented by the 1998 Supplement to the 1991 ISDA Definitions or the 1998 Supplement to the 1991 ISDA Definitions only, the section titled ''*SGD–SOR–VWAP*'' will be re-titled ''*SGD–SOR-Telerate*'' and references in such section (or in related sections) to ''SGD–SOR–VWAP'' will be deleted and replaced with ''SGD–SOR-Telerate'';

(d) The section titled ''*EUR–LIBOR–BBA*'' will be re-titled ''*XEU–LIBOR–BBA*'' and references in such section (or in related sections) to ''EUR–LIBOR–BBA'' will be deleted and replaced with ''XEU- LIBOR–BBA'';

(e) The section titled ''*AUD–BBR–AUBBSW*'' will be re-titled ''*AUD–BBR–ISDC*'' and references in such section (or in related sections) to ''AUD–BBR–AUBBSW'' will be deleted and replaced with ''AUD–BBR–ISDC''; and

(f) All references to section numbers within the 2006 ISDA Definitions will be deemed to be references to the equivalent sections within the 1991 ISDA Definitions or the 1998 Supplement to the 1991 ISDA Definitions (as applicable).

4. Amendments to Protocol Covered Documents Incorporating the 1998 ISDA Euro Definitions

If a Protocol Covered Document incorporates the 1998 ISDA Euro Definitions:

(a) the version of the 1998 ISDA Euro Definitions so incorporated shall be amended in accordance with the terms of the IBOR Fallbacks Supplement (and, if that Protocol Covered Document is a Protocol Covered Master Agreement, any reference to a term defined in the 1998 ISDA Euro Definitions in a Confirmation which supplements, forms part of and is subject to that Protocol Covered Master Agreement will be a reference to the term as defined in the 1998 ISDA Euro Definitions as amended in accordance with the IBOR Fallbacks Supplement), provided that the IBOR Fallbacks Supplement shall be deemed amended as follows:

(i) Each of the following sections shall be deleted:

(A) ''*GBP–LIBOR–BBA*'';

(B) ''*GBP–LIBOR–BBA-Bloomberg*'';

(C) ''*CHF–LIBOR–BBA*'';

(D) ''*CHF–LIBOR–BBA-Bloomberg*'';

(E) ''*USD–LIBOR–BBA*'';

(F) ''*USD–LIBOR–BBA-Bloomberg*'';

(G) ''*EUR–LIBOR–BBA-Bloomberg*'';

(H) ''*JPY–LIBOR–FRASETT*'';

(I) ''*JPY–LIBOR–BBA*'';

(J) ''*JPY–LIBOR–BBA-Bloomberg*'';

(K) ''*JPY–TIBOR–17097*'';

(L) ''*JPY–TIBOR–TIBM-(All Banks)-Bloomberg*'';

(M) ''*JPY–TIBOR–ZTIBOR*'';

(N) ''*AUD–BBR–AUBBSW*'';

(O) ''*AUD–BBR–BBSW*'';

(P) ''*AUD–BBR–BBSW-Bloomberg*'';

(Q) ''*CAD–BA–CDOR*'';

(R) ''*CAD–BA–CDOR-Bloomberg*'';

(S) ''*HKD–HIBOR–HKAB*'';

(T) ''*HKD–HIBOR–HKAB-Bloomberg*'';

(U) ''*SGD–SOR–VWAP*''; and

(V) ''*THB–THBFIX-Reuters*'';

(ii) the section titled ''*EUR–EURIBOR-Reuters*'' will be re-titled ''*EUR–EURIBOR-Telerate*'' and references in such section (or in related sections) to ''EUR–EURIBOR-Reuters'' will be deleted and replaced with ''EUR–EURIBOR-Telerate''; and

(iii) all references to section numbers within the 2006 ISDA Definitions will be deemed to be references to the equivalent sections within the 1998 ISDA Euro Definitions.

(b) If a Relevant Rate (as defined in the 1991 ISDA Definitions) is to be determined pursuant to Section 4.3(b) (*Price Source Fallbacks*) of the 1998 ISDA Euro Definitions and ''rates for deposits in euros'' referred to in that section are required for any determination but are not available, they shall be deemed to be references to a Relevant IBOR (and, in particular, the euro interbank offered rate) to which paragraph 6 of this Attachment applies.

5. Amendments to Protocol Covered Documents Which Reference a Relevant IBOR ''as defined'', or as Having the Meaning Given, in a Covered ISDA Definitions Booklet

A Protocol Covered Document of the type described in subparagraph (b) of, respectively, the definition of Protocol Covered Confirmation, Protocol Covered Credit Support Document or Protocol Covered Master Agreement shall be amended so that the reference to the Relevant IBOR ''as defined in'', or the reference to the Relevant IBOR as having the meaning given in, the Covered ISDA Definitions Booklet will instead be a reference to the relevant Rate Option in the IBOR Fallbacks Supplement (or, if there is more than one relevant Rate Option, the first relevant Rate Option in the

IBOR Fallbacks Supplement) for the Relevant IBOR ''as defined in the IBOR Fallbacks Supplement'' (and, if that Protocol Covered Document is a Protocol Covered Master Agreement, any reference to the Relevant IBOR (as defined in that Protocol Covered Master Agreement) in a Confirmation which supplements, forms part of and is subject to that Protocol Covered Master Agreement will be a reference to the relevant Rate Option in the IBOR Fallbacks Supplement (or, if there is more than one relevant Rate Option, the first relevant Rate Option in the IBOR Fallbacks Supplement) for the Relevant IBOR ''as defined in the IBOR Fallbacks Supplement''), provided that:

(a) If the Relevant IBOR is:

(i) ''EUR–EURIBOR-Telerate'', it will be deemed to be a reference to ''EUR–EURIBOR-Reuters'';

(ii) ''AUD–BBR–ISDC'', it will be deemed to be a reference to ''AUD–BBR–AUBBSW'';

(iii) ''XEU–LIBOR–BBA'', it will be deemed to be a reference to ''EUR–LIBOR–BBA''; and

(iv) ''SGD–SOR-Telerate'', it will be deemed to be a reference to ''SGD–SOR–VWAP'', in each case, as defined in the IBOR Fallbacks Supplement; and

(b) If the Relevant IBOR is ''THB–THBFIX-Reuters'' and the Covered ISDA Definitions Booklet is the 2000 ISDA Definitions, the IBOR Fallbacks Supplement shall be deemed amended in accordance with subparagraph 2(e) of this Attachment.

6. Amendments to Certain Protocol Covered Documents That Reference a Relevant IBOR

If a Protocol Covered Document is of the type described in subparagraph (c) of, respectively, the definition of Protocol Covered Confirmation, Protocol Covered Credit Support Document or Protocol Covered Master Agreement and, in each case, includes a reference to a Relevant IBOR pursuant to which the Relevant IBOR is required for any determination, and:

(a) (i) the Relevant IBOR which is required for that determination is neither the Singapore dollar swap offer rate nor the Thai baht interest rate fixing, (ii) the Relevant IBOR which is required for that determination has not been published by the source that is specified or otherwise ordinarily used to determine the level of the Relevant IBOR on the day on which it is required, and (iii) an Index Cessation Effective Date with respect to the Relevant IBOR has not occurred, then the reference to the Relevant IBOR will be deemed to be a reference to the rate as provided by the administrator of the Relevant IBOR and published by an authorized distributor of the Relevant IBOR or the administrator of the Relevant IBOR itself in respect of the day on which it is required. If neither an authorized distributor nor the administrator has published or provided the Relevant IBOR in respect of that day and an Index Cessation Effective Date with respect to the Relevant IBOR has not occurred, then, unless otherwise agreed by the parties, the reference to the Relevant IBOR will be deemed to be a reference to:

(A) A rate formally recommended for use by the administrator of the Relevant IBOR; or

(B) A rate formally recommended for use by:

(I) If the Relevant IBOR which is required for that determination is Swiss franc LIBOR, the competent authority responsible for supervising that rate or the administrator of that rate;

(II) If the Relevant IBOR which is required for that determination is sterling LIBOR, euro LIBOR or the euro interbank offered rate, the supervisor which is responsible for supervising the Relevant IBOR or the administrator of the Relevant IBOR;

(III) If the Relevant IBOR which is required for that determination is Japanese yen LIBOR, the Japanese yen Tokyo interbank offered rate or the euroyen Tokyo interbank offered rate, a committee officially endorsed or convened by the Bank of Japan for the purposes of recommending an alternative rate for that Relevant IBOR (which rate may be produced by the Bank of Japan or another administrator) or any other supervisor which is responsible for supervising the Relevant IBOR or the administrator of the Relevant IBOR;

(IV) If the Relevant IBOR which is required for that determination is U.S. dollar LIBOR, the Federal Reserve Board or the Federal Reserve Bank of New York or any other supervisor which is responsible for supervising the Relevant IBOR or the administrator of the Relevant IBOR; and

(V) If the Relevant IBOR which is required for that determination is the bank bill swap rate, the Australian Securities and Investments Commission (or any successor to the Australian Securities and Investments Commission in its role as supervisor of the bank bill swap rate),

In each case, during the period of non-publication of the Relevant IBOR and for so long as an Index Cessation Effective Date has not occurred. If a rate described in subparagraph (A) above is available, that rate shall apply. If no such rate is available but, in respect of the Relevant IBOR, a rate described in subparagraph (B) above, if applicable, is available, that rate shall apply. If neither a rate described in subparagraph (A) above is available nor a rate described in subparagraph (B) above, if applicable, is available, then the Calculation Agent shall determine a commercially reasonable alternative for the Relevant IBOR, taking into account any rate implemented by central counterparties and/or futures exchanges, in each case with trading volumes in derivatives or futures referencing the Relevant IBOR that the Calculation Agent considers sufficient for that rate to be a representative alternative rate.

If the Relevant IBOR is the Hong Kong interbank offered rate and the Protocol Covered Document provides that the Hong Kong Association of Banks' (or any successor's) typhoon and rainstorm arrangements (as published on the Hong Kong Association of Banks' website or on any successor website) apply, then those typhoon and rainstorm arrangements shall continue to apply and shall take precedence over the provisions of this paragraph 6(a);

(b) (i) The Relevant IBOR which is required for that determination is the Singapore dollar swap offer rate, (ii) the Singapore dollar swap offer rate has not been published by the source that is specified or otherwise ordinarily used to determine the level of the Singapore dollar swap offer rate on the day on which it is required and (iii) an Index Cessation Effective Date with respect to U.S. dollar LIBOR has not occurred, then the reference to the Singapore dollar swap offer rate will be deemed to be a reference to the substitute rate announced by ABS Benchmarks Administration Co Pte. Ltd. (or its successor as administrator or sponsor of that rate) in respect of the Singapore dollar swap offer rate.

If ABS Benchmarks Administration Co Pte. Ltd. (or its successor as administrator or sponsor of that rate) has not announced a substitute rate by 9:00 p.m., Singapore time, on the Relevant Original Fixing Date and an Index Cessation Effective Date with respect to U.S. dollar LIBOR has not occurred, then, unless otherwise agreed by the parties, the reference to the Singapore dollar swap offer rate will be deemed to be a reference to:

(A) A rate formally recommended for use by the administrator of the Singapore dollar swap offer rate; or

(B) A rate formally recommended for use by the Monetary Authority of Singapore (or any other supervisor which is responsible for supervising the Singapore dollar swap offer rate or the administrator of the Singapore dollar swap offer rate) or a committee officially endorsed or convened by the Monetary Authority of Singapore (or any other supervisor which is responsible for supervising the Singapore dollar swap offer rate or the administrator of the Singapore dollar swap offer rate), in each case, during the period of non-publication of the Singapore dollar swap offer rate and for so long as an Index Cessation Effective Date with respect to U.S. dollar LIBOR has not occurred. If a rate described in subparagraph (A) above is available, that rate shall apply. If no such rate is available but a rate described in subparagraph (B) above is available, that rate shall apply. If neither a rate described in subparagraph (A) above nor a rate described in subparagraph (B) above is available, then the Calculation Agent shall determine a commercially reasonable alternative for the Singapore dollar swap offer rate, taking into account any rate implemented by central counterparties and/or futures exchanges, in each case with trading volumes in derivatives or futures referencing the Singapore dollar swap offer rate that the Calculation Agent considers sufficient for that rate to be a representative alternative rate;

(c) (i) the Relevant IBOR which is required for that determination is the Thai baht interest rate fixing, (ii) the Thai baht interest rate fixing has not been published by the source that is specified or otherwise ordinarily used to determine the level of the Thai baht interest rate fixing on the day on which it is required and (iii) an Index Cessation Effective Date with respect to U.S. dollar LIBOR has not occurred, then the reference to the Thai baht interest rate fixing will be deemed to be a reference to ''THB–THBFIX-Reference Banks'' (as defined in the 2006 ISDA Definitions) but with the references to (A) ''Reset Date'' being replaced by ''the day on which the rate is required''; (B) ''Designated Maturity'' being replaced by

''the period of time in respect of which the Thai baht interest rate fixing is to be determined''; (C) ''Calculation Period'' being replaced by ''period''; and (D) ''Representative Amount'' being replaced by ''an amount that is representative for a single transaction in the relevant market at the relevant time''. If the rate cannot be determined pursuant to ''THB–THBFIX-Reference Banks'' (as defined in the 2006 ISDA Definitions) andan Index Cessation Effective Date with respect to U.S. dollar LIBOR has not occurred, the rate will be determined by the Calculation Agent taking into consideration all available information that in good faith it deems relevant;

(d) Subject to paragraphs 6(e), (f) and (g) below, an Index Cessation Event has occurred with respect to the Relevant IBOR (or, if the Relevant IBOR is either the Singapore dollar swap offer rate or the Thai baht interest rate fixing, with respect to U.S. dollar LIBOR), then the reference to the Relevant IBOR will be deemed to be a reference to the Applicable Fallback Rate from and including either the Index Cessation Effective Date or, if the Relevant IBOR is observed on a day that is a period of time prior to the date for which the Relevant IBOR is set, such period of time following the Index Cessation Effective Date, provided that:

(i) If the Applicable Fallback Rate is Fallback Rate (SONIA), Fallback Rate (SARON), Fallback Rate (SOFR), Fallback Rate (EuroSTR), Fallback Rate (TONA), Fallback Rate (AONIA), Fallback Rate (CORRA), Fallback Rate (HONIA), Fallback Rate (SOR) or Fallback Rate (THBFIX), then the rate for the Relevant Original Fixing Date will be the Applicable Fallback Rate for the 'Original IBOR Rate Record Day' (or, if Fallback Rate (SOR) or Fallback Rate (THBFIX) is the Applicable Fallback Rate, for the 'Original SOR Rate Record Day' or 'Original THBFIX Rate Record Day', as applicable) that corresponds to the Relevant Original Fixing Date, as most recently provided or published as at the Applicable Cut-off Time. If neither the provider of the Applicable Fallback Rate (or a successor provider, which, if the Applicable Fallback Rate is Fallback Rate (SONIA), Fallback Rate (SARON), Fallback Rate (SOFR), Fallback Rate (EuroSTR), Fallback Rate (TONA), Fallback Rate (AONIA), Fallback Rate (CORRA) or Fallback Rate (HONIA), is approved and/or appointed by ISDA from time to time) provides, nor any authorized distributors publish, the Applicable Fallback Rate for that 'Original IBOR Rate Record Day' (or that 'Original SOR Rate Record Day' or 'Original THBFIX Rate Record Day', as applicable) at, or prior to, the Applicable Cut-off Time and a Fallback Index Cessation Effective Date with respect to that Applicable Fallback Rate has not occurred, then the rate for the Relevant Original Fixing Date will be the Applicable Fallback Rate as most recently provided or published at the Applicable Cut-off Time for the most recent 'Original IBOR Rate Record Day' (or 'Original SOR Rate Record Day' or 'Original THBFIX Rate Record Day', as applicable), notwithstanding that such day does not correspond to the Relevant Original Fixing Date;

(ii) If (A) the Applicable Fallback Rate is SONIA, the GBP Recommended Rate, SARON, the NWG Recommended Rate, the Modified SNB Policy Rate, SOFR, the Fed Recommended Rate, OBFR, the FOMC Target Rate, EuroSTR, the ECB Recommended Rate, Modified EDFR, TONA, the JPY Recommended Rate, AONIA, the RBA Recommended Rate, CORRA, the CAD Recommended Rate, the BOC Target Rate, HONIA, the HKD Recommended Rate, the MAS Recommended Rate, SORA, the BOT Recommended Rate or THOR, (B) neither the administrator provides nor authorized distributors publish that Applicable Fallback Rate (or if the Applicable Fallback Rate is the Modified SNB Policy Rate or Modified EDFR, the index, benchmark or other price source that is referred to in the definition thereof) and (C) a Fallback Index Cessation Effective Date with respect to that Applicable Fallback Rate has not occurred, then, in respect of any day for which that Applicable Fallback Rate is required, references to that Applicable Fallback Rate will be deemed to be references to the last provided or published Applicable Fallback Rate. If the Applicable Fallback Rate is the Modified SNB Policy Rate or Modified EDFR, references to that Applicable Fallback Rate in subparagraph 6(d)(ii)(C) above shall be deemed to be references to the index, benchmark or other price source that is referred to in the definition of Modified SNB Policy Rate or Modified EDFR, as applicable; and

(iii) If the Applicable Fallback Rate is UK Bank Rate, in respect of any day for which the UK Bank Rate is required, references to the UK Bank Rate will be deemed to be references to the last provided or published UK Bank Rate as at close of business in London on that day.

If the Relevant IBOR is the Singapore dollar swap offer rate or the Thai baht interest rate fixing, an Index Cessation Event with respect to U.S. dollar LIBOR will also occur if the Relevant IBOR in the relevant tenor (which under the 2006 ISDA Definitions would be equivalent to the ''Designated Maturity'') has not been published by the source that is specified or otherwise ordinarily used to determine the level of the Relevant IBOR and, as of the Relevant Original Fixing Date, U.S. dollar LIBOR in the relevant tenor (which under the 2006 ISDA Definitions would be equivalent to the ''Designated Maturity'') has been permanently discontinued or is Non-Representative and there is either no U.S. dollar LIBOR which has not been permanently discontinued and which is not Non-Representative for a period which is longer than that relevant tenor or no U.S. dollar LIBOR which has not been permanently discontinued and which is not Non-Representative for a period which is shorter than that relevant tenor. The related Index Cessation Effective Date shall be the first date on which there is no such longer or shorter rate or, if later, the first date on which U.S. dollar LIBOR in the relevant tenor (which under the 2006 ISDA Definitions would be equivalent to the ''Designated Maturity'') is permanently unavailable or Non-Representative.

For the purposes of this paragraph 6(d), references to an ''Original IBOR Rate Record Day'', ''Original SOR Rate Record Day'' and ''Original THBFIX Rate Record Day'' are to that term as used on the Fallback Rate Screen. For the purposes of the immediately preceding paragraph above, (A) references to a rate being ''permanently discontinued'' or ''permanently unavailable'' shall be deemed to be references to such rate being permanently discontinued or permanently unavailable following a public statement or publication of information which would constitute an Index Cessation Event in accordance with subparagraphs (a) and (b) of the definition thereof in respect of that rate in the relevant tenor and (B) references to ''U.S. dollar LIBOR'' in the definition of ''Non-Representative'' shall be deemed to be references to the relevant tenor of U.S. dollar LIBOR;

(e) If the Relevant IBOR which is required for that determination is neither the Singapore dollar swap offer rate nor the Thai baht interest rate fixing and:

(i) The determination for which the Relevant IBOR is required is ordinarily made by reference to linear interpolation between two rates, each of which is based on the Relevant IBOR, then (notwithstanding paragraph 6(d) above) the provisions of Section 7.9(a) of the 2006 ISDA Definitions shall be deemed to apply, provided that the Calculation Agent shall make such adaptations as are reasonable and necessary to the provisions of Section 7.9(a) of the 2006 ISDA Definitions in order to apply them to the relevant Protocol Covered Document;

(ii) The Relevant IBOR which is required for that determination is to be determined by reference to one or more rates, either (A) at least one of which has been permanently discontinued, or (B) if the Relevant IBOR is a Relevant LIBOR, at least one of which is Non-Representative, and, in either case, at least two Relevant IBOR tenors, at least one of which is shorter than the period of time in respect of which the Relevant IBOR is to be determined and at least one of which is longer than the period of time in respect of which the Relevant IBOR is to be determined, have not been permanently discontinued (and, if the Relevant IBOR is a Relevant LIBOR, are not Non- Representative), then the provisions of Section 8.5 and Section 8.6 of the 2006 ISDA Definitions shall be deemed to apply, provided that the Calculation Agent shall make such adaptations as are reasonable and necessary to the provisions of Sections 8.5 and 8.6 of the 2006 ISDA Definitions in order to apply them to the relevant Protocol Covered Document;

(iii) The Relevant IBOR which is required for that determination is to be determined by reference to a tenor of the Relevant IBOR which has been permanently discontinued (or, if the Relevant IBOR is a Relevant LIBOR, which is Non-Representative), and there are either no shorter or no longer tenors in respect of the Relevant IBOR which have not been permanently discontinued (or, if the Relevant IBOR is a Relevant LIBOR, which are not Non-Representative), then an Index Cessation Event shall be deemed to have occurred with respect to the Relevant IBOR and the Index Cessation Effective Date shall be the first date on which there is either no such shorter or no such longer tenor or, if

later, the first date on which the Relevant IBOR in the relevant tenor is permanently unavailable (or, if the Relevant IBOR is a Relevant LIBOR, Non-Representative);

(iv) In the event of any inconsistency between the provisions of subparagraph 6(e)(ii) or subparagraph 6(e)(iii) above and the provisions of subparagraph 6(e)(i) above, subparagraph 6(e)(i) above shall prevail; and

(v) In the event of any inconsistency between the provisions of subparagraph 6(e)(ii) or subparagraph 6(e)(iii) above and paragraph 6(d) above (including any terms used in paragraph 6(d) above and defined below), subparagraph 6(e)(ii) or subparagraph 6(e)(iii) above (as applicable) shall prevail,

For the purposes of this paragraph 6(e), (A) references to a rate being ''permanently discontinued'' shall be deemed to be references to such rate being permanently discontinued following a public statement or publication of information which would constitute an Index Cessation Event in accordance with subparagraphs (a) and (b) of the definition thereof in respect of that rate in the relevant tenor, (B) references to the ''Relevant LIBOR'' in the definition of ''Non-Representative'' shall be deemed to be references to the relevant tenor of the Relevant LIBOR and (C) Section 7.9(a), 8.5 and 8.6 of the 2006 ISDA Definitions shall be construed in accordance with Sections 7.3(r) and 7.3(s) of the 2006 ISDA Definitions;

(f) If the Relevant IBOR which is required for that determination is the Singapore dollar swap offer rate or the Thai baht interest rate fixing and the determination for which the Relevant IBOR is required is ordinarily made by reference to linear interpolation between two rates, each of which is based on the Relevant IBOR, then (notwithstanding paragraph 6(d) above) the provisions of Section 7.10(a) of the 2006 ISDA Definitions shall be deemed to apply, provided that the Calculation Agent shall make such adaptations as are reasonable and necessary to the provisions of Section 7.10(a) of the 2006 ISDA Definitions in order to apply them to the relevant Protocol Covered Document.

For the purposes of this paragraph 6(f), Section 7.10(a) of the 2006 ISDA Definitions shall be construed in accordance with Sections 7.3(r) and 7.3(s) of the 2006 ISDA Definitions;

(g) If (i) the Relevant IBOR which is required for that determination is the Singapore dollar swap offer rate or the Thai baht interest rate fixing and the Applicable Fallback Rate is Fallback Rate (SOR) or Fallback Rate (THBFIX), as applicable, (ii) the determination for which the Relevant IBOR is required is not ordinarily made by reference to linear interpolation between two rates and (iii) the period of time for which the rate is required (which under the 2006 ISDA Definitions would be the ''Calculation Period'') is shorter than the Relevant IBOR in the relevant tenor (which under the 2006 ISDA Definitions would be the ''Designated Maturity''), then (notwithstanding paragraph 6(d) above) the provisions of Section 7.11(a) of the 2006 ISDA Definitions shall be deemed to apply, provided that the Calculation Agent shall make such adaptations as are reasonable and necessary to the provisions of Section 7.11(a) of the 2006 ISDA Definitions in order to apply them to the relevant Protocol Covered Document; and

(h) If the definition, methodology, formula or other means of calculating the Relevant IBOR or the Applicable Fallback Rate (or, if applicable, the index, benchmark or other price source that is referred to in the Relevant IBOR or the Applicable Fallback Rate) is modified, each party acknowledges that, unless otherwise specified or agreed, references to that Relevant IBOR or the Applicable Fallback Rate (or the index, benchmark or other price source that is referred to in the Relevant IBOR or the Applicable Fallback Rate) shall be to the Relevant IBOR or the Applicable Fallback Rate (or the index, benchmark or other price source that is referred to in the Relevant IBOR or the Applicable Fallback Rate) as modified. In the event of any inconsistency between this paragraph 6(h) and paragraphs 6(a) through 6(d) above (including any terms used in those paragraphs and defined below and including subparagraphs 6(e)(ii) and 6(e)(iii) above as they apply in priority to paragraph 6(d) above), paragraphs 6(a) through 6(d) above including subparagraphs 6(e)(ii) and 6(e)(iii) as they apply in priority to paragraph 6(d) above shall prevail.

If the Relevant IBOR referenced in the Protocol Covered Document is LIBOR with no reference to, or indication of, the currency of the relevant LIBOR (including, for the avoidance of doubt, the reference in Section 7.3 (*Corrections to Published Prices*) of the 2005 ISDA Commodity Definitions to ''the spot offered rate for deposits in the payment currency in the London interbank market as at approximately 11:00 a.m., London time''), then the reference to LIBOR (howsoever defined or described) in the Protocol Covered Document will be deemed to be a reference to LIBOR in the currency of the related payment for which LIBOR is required pursuant to the terms of the Protocol Covered Document and paragraphs 6(a), 6(d) and 6(e) above, and the related definitions below, shall be construed accordingly.

For the purposes of any Protocol Covered Document which does not include a definition of ''Calculation Agent'', the term ''Calculation Agent'' shall be deemed to be a reference to a party or parties who would ordinarily be responsible for calculating or determining any rates or amounts payable under the relevant Protocol Covered Document and performing any associated duties.

If the Protocol Covered Document to which this paragraph 6 applies is a Protocol Covered Master Agreement, the Relevant IBOR is defined in the Protocol Covered Master Agreement and that definition is referenced in a Confirmation that supplements, forms part of and is subject to that Protocol Covered Master Agreement, then the reference in the Protocol Covered Master Agreement to the Relevant IBOR as amended by this paragraph 6 will also apply to the reference to the Relevant IBOR in that Confirmation.

For these purposes:

''*Applicable Banking Days*'' means, if the Relevant IBOR is:

(a) Swiss franc LIBOR, U.S. dollar LIBOR or Japanese yen LIBOR, London Banking Days (as defined in the 2006 ISDA Definitions);

(b) Euro LIBOR or the euro interbank offered rate, TARGET Settlement Days (as defined in the 2006 ISDA Definitions);

(c) The Japanese yen Tokyo interbank offered rate or the euroyen Tokyo interbank offered rate, Tokyo Banking Days (as defined in the 2006 ISDA Definitions);

(d) The Singapore dollar swap offer rate, Singapore and London Banking Days (as defined in the 2006 ISDA Definitions); and

(e) The Thai baht interest rate fixing, Bangkok Banking Days (as defined in the 2006 ISDA Definitions).

''*Applicable Cut-off Time*'' means:

(a) for Fallback Rate (SONIA), 11:30 a.m., London time;

(b) for Fallback Rate (SARON), 8:30 p.m., Zurich time;

(c) for Fallback Rate (SOFR), 10:30 a.m., New York City time;

(d) for Fallback Rate (EuroSTR), 11:30 a.m., Frankfurt time;

(e) for Fallback Rate (TONA), 12:30 p.m., Tokyo time;

(f) for Fallback Rate (AONIA), 11:30 a.m., Sydney time;

(g) for Fallback Rate (CORRA), 11:30 a.m., Toronto time;

(h) for Fallback Rate (HONIA), 7:30 p.m., Hong Kong time;

(i) for Fallback Rate (SOR), 11:30 a.m., New York City time; and

(j) for Fallback Rate (THBFIX), 10:00 a.m., Bangkok time, in each case, on the Fallback Observation Day.

''*Applicable Fallback Rate*'' means, in respect of a Relevant IBOR, for the purposes of:

(a) Sterling LIBOR, Fallback Rate (SONIA) or if a Fallback Index Cessation Event has occurred with respect to Fallback Rate (SONIA), then the Applicable Fallback Rate for any Fallback Observation Day that occurs on or after the Fallback Index Cessation Effective Date with respect to Fallback Rate (SONIA) will be the Sterling Overnight Index Average (''SONIA'') rate administered by the Bank of England (or any successor administrator), to which the Calculation Agent shall apply the most recently published spread, as at the Fallback Index Cessation Effective Date with respect to Fallback Rate (SONIA), referred to in the definition of ''Fallback Rate (SONIA)'' after making such adjustments to SONIA as are necessary to account for any difference in term structure or tenor of SONIA by comparison to Fallback Rate (SONIA) and by reference to the Bloomberg IBOR Fallback Rate Adjustments Rule Book. If a Fallback Index Cessation Effective Date occurs with respect to each of Fallback Rate (SONIA) and SONIA, then the Applicable Fallback Rate for any Fallback Observation Day that occurs on or after the Fallback Index Cessation Effective Date with respect to Fallback Rate (SONIA) (or, if later, the Fallback Index Cessation Effective Date with respect to SONIA) will be the GBP Recommended Rate, to which the Calculation Agent shall apply the most recently published spread, as at the Fallback Index Cessation Effective Date with respect to Fallback Rate (SONIA), referred to in the definition of ''Fallback Rate (SONIA)'' after

making such adjustments to the GBP Recommended Rate as are necessary to account for any difference in term structure or tenor of the GBP Recommended Rate by comparison to Fallback Rate (SONIA) and by reference to the Bloomberg IBOR Fallback Rate Adjustments Rule Book. If there is no GBP Recommended Rate before the end of the first London Banking Day (as defined in the 2006 ISDA Definitions) following the Fallback Index Cessation Effective Date with respect to Fallback Rate (SONIA) (or, if later, the end of the first London Banking Day following the Fallback Index Cessation Effective Date with respect to SONIA), or there is a GBP Recommended Rate and a Fallback Index Cessation Effective Date subsequently occurs with respect to it, then the Applicable Fallback Rate for any Fallback Observation Day that occurs on or after the Fallback Index Cessation Effective Date with respect to Fallback Rate (SONIA) (or, if later, the Fallback Index Cessation Effective Date with respect to SONIA) or the Fallback Index Cessation Effective Date with respect to the GBP Recommended Rate (as applicable) will be the UK Bank Rate, to which the Calculation Agent shall apply the most recently published spread, as at the Fallback Index Cessation Effective Date with respect to Fallback Rate (SONIA), referred to in the definition of ''Fallback Rate (SONIA)'' after making such adjustments to the UK Bank Rate as are necessary to account for any difference in term structure or tenor of the UK Bank Rate by comparison to Fallback Rate (SONIA) and by reference to the Bloomberg IBOR Fallback Rate Adjustments Rule Book;

(b) Swiss franc LIBOR, Fallback Rate (SARON) or if a Fallback Index Cessation Event has occurred with respect to Fallback Rate (SARON), then the Applicable Fallback Rate for any Fallback Observation Day that occurs on or after the Fallback Index Cessation Effective Date with respect to Fallback Rate (SARON) will be the Swiss Average Rate Overnight (''SARON'') administered by SIX Swiss Exchange AG (or any successor administrator), to which the Calculation Agent shall apply the most recently published spread, as at the Fallback Index Cessation Effective Date with respect to Fallback Rate (SARON), referred to in the definition of ''Fallback Rate (SARON)'' after making such adjustments to SARON as are necessary to account for any difference in term structure or tenor of SARON by comparison to Fallback Rate (SARON) and by reference to the Bloomberg IBOR Fallback Rate Adjustments Rule Book.

If a Fallback Index Cessation Effective Date occurs with respect to each of Fallback Rate (SARON) and SARON, then the Applicable Fallback Rate for any Fallback Observation Day that occurs on or after the Fallback Index Cessation Effective Date with respect to Fallback Rate (SARON) (or, if later, the Fallback Index Cessation Effective Date with respect to SARON) will be the NWG Recommended Rate, to which the Calculation Agent shall apply the most recently published spread, as at the Fallback Index Cessation Effective Date with respect to Fallback Rate (SARON), referred to in the definition of ''Fallback Rate (SARON)'' after making such adjustments to the NWG Recommended Rate as are necessary to account for any difference in term structure or tenor of the NWG Recommended Rate by comparison to Fallback Rate (SARON) and by reference to the Bloomberg IBOR Fallback Rate Adjustments Rule Book.

If there is no NWG Recommended Rate before the end of the first Zurich Banking Day (as defined in the 2006 ISDA Definitions) following the Fallback Index Cessation Effective Date with respect to Fallback Rate (SARON) (or, if later, the end of the first Zurich Banking Day following the Fallback Index Cessation Effective Date with respect to SARON), then the Applicable Fallback Rate for any Fallback Observation Day that occurs on or after the Fallback Index Cessation Effective Date with respect to Fallback Rate (SARON) (or, if later, the Fallback Index Cessation Effective Date with respect to SARON) will be the Modified SNB Policy Rate, to which the Calculation Agent shall apply the most recently published spread, as at the Fallback Index Cessation Effective Date with respect to Fallback Rate (SARON), referred to in the definition of ''Fallback Rate (SARON)'' after making such adjustments to the Modified SNB Policy Rate as are necessary to account for any difference in term structure or tenor of the Modified SNB Policy Rate by comparison to Fallback Rate (SARON) and by reference to the Bloomberg IBOR Fallback Rate Adjustments Rule Book;

(c) U.S. dollar LIBOR, Fallback Rate (SOFR) or if a Fallback Index Cessation Event has occurred with respect to Fallback Rate (SOFR), then the Applicable Fallback Rate for any Fallback Observation Day that occurs on or after the Fallback Index Cessation Effective Date with respect to Fallback Rate (SOFR) will be the Secured Overnight Financing Rate (''SOFR'') administered by the Federal Reserve Bank of New York (or any successor administrator), to which the Calculation Agent shall apply the most recently published spread, as at the Fallback Index Cessation Effective Date with respect to Fallback Rate (SOFR), referred to in the definition of ''Fallback Rate (SOFR)'' after making such adjustments to SOFR as are necessary to account for any difference in term structure or tenor of SOFR by comparison to Fallback Rate (SOFR) and by reference to the Bloomberg IBOR Fallback Rate Adjustments Rule Book.

If a Fallback Index Cessation Effective Date occurs with respect to each of Fallback Rate (SOFR) and SOFR, then the Applicable Fallback Rate for any Fallback Observation Day that occurs on or after the Fallback Index Cessation Effective Date with respect to Fallback Rate (SOFR) (or, if later, the Fallback Index Cessation Effective Date with respect to SOFR) will be the Fed Recommended Rate, to which the Calculation Agent shall apply the most recently published spread, as at the Fallback Index Cessation Effective Date with respect to Fallback Rate (SOFR), referred to in the definition of ''Fallback Rate (SOFR)'' after making such adjustments to the Fed Recommended Rate as are necessary to account for any difference in term structure or tenor of the Fed Recommended Rate by comparison to Fallback Rate (SOFR) and by reference to the Bloomberg IBOR Fallback Rate Adjustments Rule Book. If there is no Fed Recommended Rate before the end of the first U.S. Government Securities Business Day (as defined in the 2006 ISDA Definitions) following the Fallback Index Cessation Effective Date with respect to Fallback Rate (SOFR) (or, if later, the end of the first U.S. Government Securities Business Day following the Fallback Index Cessation Effective Date with respect to SOFR), or there is a Fed Recommended Rate and a Fallback Index Cessation Effective Date subsequently occurs with respect to it, then the Applicable Fallback Rate for any Fallback Observation Day that occurs on or after the Fallback Index Cessation Effective Date with respect to Fallback Rate (SOFR) (or, if later, the Fallback Index Cessation Effective Date with respect to SOFR) or the Fallback Index Cessation Effective Date with respect to the Fed Recommended Rate (as applicable) will be OBFR, to which the Calculation Agent shall apply the most recently published spread, as at the Fallback Index Cessation Effective Date with respect to Fallback Rate (SOFR), referred to in the definition of ''Fallback Rate (SOFR)'' after making such adjustments to OBFR as are necessary to account for any difference in term structure or tenor of OBFR by comparison to Fallback Rate (SOFR) and by reference to the Bloomberg IBOR Fallback Rate Adjustments Rule Book.

If there is no Fed Recommended Rate, or there is a Fed Recommended Rate and a Fallback Index Cessation Effective Date subsequently occurs with respect to it, and a Fallback Index Cessation Effective Date also occurs with respect to OBFR, then the Applicable Fallback Rate for any Fallback Observation Day that occurs on or after the Fallback Index Cessation Effective Date with respect to OBFR (or, if later, the Fallback Index Cessation Effective Date with respect to the Fed Recommended Rate, SOFR or Fallback Rate (SOFR), as applicable) will be the FOMC Target Rate, to which the Calculation Agent shall apply the most recently published spread, as at the Fallback Index Cessation Effective Date with respect to Fallback Rate (SOFR), referred to in the definition of ''Fallback Rate (SOFR)'' after making such adjustments to the FOMC Target Rate as are necessary to account for any difference in term structure or tenor of the FOMC Target Rate by comparison to Fallback Rate (SOFR) and by reference to the Bloomberg IBOR Fallback Rate Adjustments Rule Book;

(d) Euro LIBOR and the euro interbank offered rate, Fallback Rate (EuroSTR) or if a Fallback Index Cessation Event has occurred with respect to Fallback Rate (EuroSTR), then the Applicable Fallback Rate for any Fallback Observation Day that occurs on or after the Fallback Index Cessation Effective Date with respect to Fallback Rate (EuroSTR) will be the Euro Short-Term Rate (''EuroSTR'') administered by the European Central Bank (or any successor administrator), to which the Calculation Agent shall apply the most recently published spread, as at the Fallback Index Cessation Effective Date with respect to Fallback Rate (EuroSTR), referred to in the definition of ''Fallback Rate (EuroSTR)'' after

making such adjustments to EuroSTR as are necessary to account for any difference in term structure or tenor of EuroSTR by comparison to Fallback Rate (EuroSTR) and by reference to the Bloomberg IBOR Fallback Rate Adjustments Rule Book. If a Fallback Index Cessation Effective Date occurs with respect to each of Fallback Rate (EuroSTR) and EuroSTR, then the Applicable Fallback Rate for any Fallback Observation Day that occurs on or after the Fallback Index Cessation Effective Date with respect to Fallback Rate (EuroSTR) (or, if later, the Fallback Index Cessation Effective Date with respect to EuroSTR) will be the ECB Recommended Rate, to which the Calculation Agent shall apply the most recently published spread, as at the Fallback Index Cessation Effective Date with respect to Fallback Rate (EuroSTR), referred to in the definition of ''Fallback Rate (EuroSTR)'' after making such adjustments to the ECB Recommended Rate as are necessary to account for any difference in term structure or tenor of the ECB Recommended Rate by comparison to Fallback Rate (EuroSTR) and by reference to the Bloomberg IBOR Fallback Rate Adjustments Rule Book.

If no ECB Recommended Rate is recommended before the end of the first TARGET Settlement Day (as defined in the 2006 ISDA Definitions) following the Fallback Index Cessation Effective Date with respect to Fallback Rate (EuroSTR) (or, if later, the end of the first TARGET Settlement Day following the Fallback Index Cessation Effective Date with respect to EuroSTR), or a Fallback Index Cessation Effective Date with respect to the ECB Recommended Rate subsequently occurs, then the Applicable Fallback Rate for any Fallback Observation Day that occurs on or after the Fallback Index Cessation Effective Date with respect to Fallback Rate (EuroSTR) (or, if later, the Fallback IndexCessation Effective Date with respect to EuroSTR) or the Fallback Index Cessation Effective Date with respect to the ECB Recommended Rate (as applicable) will be Modified EDFR, to which the Calculation Agent shall apply the most recently published spread, as at the Fallback Index Cessation Effective Date with respect to Fallback Rate (EuroSTR), referred to in the definition of ''Fallback Rate (EuroSTR)'' after making such adjustments to Modified EDFR as are necessary to account for any difference in term structure or tenor of Modified EDFR by comparison to Fallback Rate (EuroSTR) and by reference to the Bloomberg IBOR Fallback Rate Adjustments Rule Book;

(e) Japanese yen LIBOR, the Japanese yen Tokyo interbank offered rate and the euroyen Tokyo interbank offered rate, Fallback Rate (TONA) or if a Fallback Index Cessation Event has occurred with respect to Fallback Rate (TONA), then the Applicable Fallback Rate for any Fallback Observation Day that occurs on or after the Fallback Index Cessation Effective Date with respect to Fallback Rate (TONA) will be the Tokyo Overnight Average Rate (''TONA'') administered by the Bank of Japan (or any successor administrator), to which the Calculation Agent shall apply the most recently published spread, as at the Fallback Index Cessation Effective Date with respect to Fallback Rate (TONA), referred to in the definition of ''Fallback Rate (TONA)'' after making such adjustments to TONA as are necessary to account for any difference in term structure or tenor of TONA by comparison to Fallback Rate (TONA) and by reference to the Bloomberg IBOR Fallback Rate Adjustments Rule Book. If a Fallback Index Cessation Effective Date occurs with respect to each of Fallback Rate (TONA) and TONA, then the Applicable Fallback Rate for any Fallback Observation Day that occurs on or after the Fallback Index Cessation Effective Date with respect to Fallback Rate (TONA) (or, if later, the Fallback Index Cessation Effective Date with respect to TONA) will be the JPY Recommended Rate, to which the Calculation Agent shall apply the most recently published spread, as at the Fallback Index Cessation Effective Date with respect to Fallback Rate (TONA), referred to in the definition of ''Fallback Rate (TONA)'' after making such adjustments to the JPY Recommended Rate as are necessary to account for any difference in term structure or tenor of the JPY Recommended Rate by comparison to Fallback Rate (TONA) and by reference to the Bloomberg IBOR Fallback Rate Adjustments Rule Book;

(f) The bank bill swap rate, Fallback Rate (AONIA) or if a Fallback Index Cessation Event has occurred with respect to Fallback Rate (AONIA), then the Applicable Fallback Rate for any Fallback Observation Day that occurs on or after the Fallback Index Cessation Effective Date with respect to Fallback Rate (AONIA) will be the interbank overnight cash rate (''AONIA'') administered by the Reserve Bank of Australia (or any successor administrator), to which the Calculation Agent shall apply the most recently published spread, as at the Fallback Index Cessation Effective Date with respect to Fallback Rate (AONIA), referred to in the definition of ''Fallback Rate (AONIA)'' after making such adjustments to AONIA as are necessary to account for any difference in term structure or tenor of AONIA by comparison to Fallback Rate (AONIA) and by reference to the Bloomberg IBOR Fallback Rate Adjustments Rule Book. If a Fallback Index Cessation Effective Date occurs with respect to each of Fallback Rate (AONIA) and AONIA, then the Applicable Fallback Rate for any Fallback Observation Day that occurs on or after the Fallback Index Cessation Effective Date with respect to Fallback Rate (AONIA) (or, if later, the Fallback Index Cessation Effective Date with respect to AONIA) will be the RBA Recommended Rate, to which the Calculation Agent shall apply the most recently published spread, as at the Fallback Index Cessation Effective Date with respect to Fallback Rate (AONIA), referred to in the definition of ''Fallback Rate (AONIA)'' after making such adjustments to the RBA Recommended Rate as are necessary to account for any difference in term structure or tenor of the RBA Recommended Rate by comparison to Fallback Rate (AONIA) and by reference to the Bloomberg IBOR Fallback Rate Adjustments Rule Book;

(g) The Canadian dollar offered rate, Fallback Rate (CORRA) or if a Fallback Index Cessation Event has occurred with respect to Fallback Rate (CORRA), then the Applicable Fallback Rate for any Fallback Observation Day that occurs on or after the Fallback Index Cessation Effective Date with respect to Fallback Rate (CORRA) will be the Canadian Overnight Repo Rate Average (''CORRA'') administered by the Bank of Canada (or any successor administrator), to which the Calculation Agent shall apply the most recently published spread, as at the Fallback Index Cessation Effective Date with respect to Fallback Rate (CORRA), referred to in the definition of ''Fallback Rate (CORRA)'' after making such adjustments to CORRA as are necessary to account for any difference in term structure or tenor of CORRA by comparison to Fallback Rate (CORRA) and by reference to the Bloomberg IBOR Fallback Rate Adjustments Rule Book. If a Fallback Index Cessation Effective Date occurs with respect to each of Fallback Rate (CORRA) and CORRA, then the Applicable Fallback Rate for any Fallback Observation Day that occurs on or after the Fallback Index Cessation Effective Date with respect to Fallback Rate (CORRA) (or, if later, the Fallback Index Cessation Effective Date with respect to CORRA) will be the CAD Recommended Rate, to which the Calculation Agent shall apply the most recently published spread, as at the Fallback Index Cessation Effective Date with respect to Fallback Rate (CORRA), referred to in the definition of ''Fallback Rate (CORRA)'' after making such adjustments to the CAD Recommended Rate as are necessary to account for any difference in term structure or tenor of the CAD Recommended Rate by comparison to Fallback Rate (CORRA) and by reference to the Bloomberg IBOR Fallback Rate Adjustments Rule Book. If there is no CAD Recommended Rate before the end of the first Toronto Banking Day (as defined in the 2006 ISDA Definitions) following the Fallback Index Cessation Effective Date with respect to Fallback Rate (CORRA) (or, if later, the end of the first Toronto Banking Day following the Fallback Index Cessation Effective Date with respect to CORRA), or there is a CAD Recommended Rate and a Fallback Index Cessation Effective Date subsequently occurs with respect to it, then the Applicable Fallback Rate for any Fallback Observation Day that occurs on or after the Fallback Index Cessation Effective Date with respect to Fallback Rate (CORRA) (or, if later, the Fallback Index Cessation Effective Date with respect to CORRA) or the Fallback Index Cessation Effective Date with respect to the CAD Recommended Rate (as applicable) will be the BOC Target Rate, to which the Calculation Agent shall apply the most recently published spread, as at the Fallback Index Cessation Effective Date with respect to Fallback Rate (CORRA), referred to in the definition of ''Fallback Rate (CORRA)'' after making such adjustments to the BOC Target Rate as are necessary to account for any difference in term structure or tenor of the BOC Target Rate by comparison to Fallback Rate (CORRA) and by reference to the Bloomberg IBOR Fallback Rate Adjustments Rule Book;

(h) The Hong Kong interbank offered rate, Fallback Rate (HONIA) or if a Fallback Index Cessation Event has occurred with respect to Fallback Rate (HONIA), then the Applicable Fallback Rate for any Fallback Observation

Day that occurs on or after the Fallback Index Cessation Effective Date with respect to Fallback Rate (HONIA) will be the Hong Kong Dollar Overnight Index Average (''HONIA'') rate administered by the Treasury Markets Association (or any successor administrator), to which the Calculation Agent shall apply the most recently published spread, as at the Fallback Index Cessation Effective Date with respect to Fallback Rate (HONIA), referred to in the definition of ''Fallback Rate (HONIA)'' after making such adjustments to HONIA as are necessary to account for any difference in term structure or tenor of HONIA by comparison to Fallback Rate (HONIA) and by reference to the Bloomberg IBOR Fallback Rate Adjustments Rule Book. If a Fallback Index Cessation Effective Date occurs with respect to each of Fallback Rate (HONIA) and HONIA, then the Applicable Fallback Rate for any Fallback Observation Day that occurs on or after the Fallback Index Cessation Effective Date with respect to Fallback Rate (HONIA) (or, if later, the Fallback Index Cessation Effective Date with respect to HONIA) will be the HKD Recommended Rate, to which the Calculation Agent shall apply the most recently published spread, as at the Fallback Index Cessation Effective Date with respect to Fallback Rate (HONIA), referred to in the definition of ''Fallback Rate (HONIA)'' after making such adjustments to the HKD Recommended Rate as are necessary to account for any difference in term structure or tenor of the HKD Recommended Rate by comparison to Fallback Rate (HONIA) and by reference to the Bloomberg IBOR Fallback Rate Adjustments Rule Book; the Singapore dollar swap offer rate, Fallback Rate (SOR) or if a Fallback Index Cessation Event has occurred with respect to Fallback Rate (SOR), then the Applicable Fallback Rate for any Fallback Observation Day that occurs on or after the Fallback Index Cessation Effective Date with respect to Fallback Rate (SOR) will be the MAS Recommended Rate or, if there is no MAS Recommended Rate before the end of the first Singapore Banking Day (as defined in the 2006 ISDA Definitions) following the Fallback Index Cessation Effective Date with respect to Fallback Rate (SOR), or there is a MAS Recommended Rate and a Fallback Index Cessation Effective Date subsequently occurs with respect to it, then the Applicable Fallback Rate for any Fallback Observation Day that occurs on or after the Fallback Index Cessation Effective Date with respect to Fallback Rate (SOR) or the Fallback Index Cessation Effective Date with respect to the MAS Recommended Rate (as applicable) will be SORA, to which the Calculation Agent shall make such adjustments as are necessary to account for any difference in term structure or tenor of SORA by comparison to Fallback Rate (SOR) and by reference to the Calculation Methodology for Fallback Rate (SOR); and

(i) The Thai baht interest rate fixing, Fallback Rate (THBFIX) or if a Fallback Index Cessation Event has occurred with respect to Fallback Rate (THBFIX), then the Applicable Fallback Rate for any Fallback Observation Day that occurs on or after the Fallback Index Cessation Effective Date with respect to Fallback Rate (THBFIX) will be the BOT Recommended Rate or, if there is no BOT Recommended Rate before the end of the first Bangkok Banking Day (as defined in the 2006 ISDA Definitions) following the Fallback Index Cessation Effective Date with respect to Fallback Rate (THBFIX), or there is a BOT Recommended Rate and a Fallback Index Cessation Effective Date subsequently occurs with respect to it, then the Applicable Fallback Rate for any Fallback Observation Day that occurs on or after the Fallback Index Cessation Effective Date with respect to Fallback Rate (THBFIX) or the Fallback Index Cessation Effective Date with respect to the BOT Recommended Rate (as applicable) will be THOR, to which the Calculation Agent shall make such adjustments as are necessary to account for any difference in term structure or tenor of THOR by comparison to Fallback Rate (THBFIX) and by reference to the Bank of Thailand THBFIX Fallback Rate Adjustments Rule Book.

''*Bank of Thailand THBFIX Fallback Rate Adjustments Rule Book*'' means the THBFIX Fallback Rate Adjustments Rule Book published by the Bank of Thailand as updated from time to time.

''*Bloomberg IBOR Fallback Rate Adjustments Rule Book*'' means the IBOR Fallback Rate Adjustments Rule Book published by Bloomberg Index Services Limited (or a successor provider as approved and/or appointed by ISDA from time to time) as updated from time to time in accordance with its terms.

''*BOC Target Rate*'' means the Bank of Canada's Target for the Overnight Rate as set by the Bank of Canada and published on the Bank of Canada's website (as defined in the 2006 ISDA Definitions).

''*BOT Recommended Rate*'' means the rate (inclusive of any spreads or adjustments) recommended as the replacement for Fallback Rate (THBFIX) by the Bank of Thailand or by a committee officially endorsed or convened by the Bank of Thailand (which rate may be produced by the Bank of Thailand or another administrator) and as provided by the administrator of that rate in respect of the day for which that rate is required (which under the 2006 ISDA Definitions would be the ''Reset Date'') or, if that rate is not provided by the administrator of that rate (or a successor administrator), published by an authorized distributor.

''*CAD Recommended Rate*'' means the rate (inclusive of any spreads or adjustments) recommended as the replacement for CORRA by a committee officially endorsed or convened by the Bank of Canada for the purpose of recommending a replacement for CORRA (which rate may be produced by the Bank of Canada or another administrator) and as provided by the administrator of that rate or, if that rate is not provided by the administrator thereof (or a successor administrator), published by an authorized distributor. ''Calculation Methodology for Fallback Rate (SOR)'' means the Calculation Methodology for Fallback Rate (SOR) published by ABS Benchmarks Administration Co Pte. Ltd. as updated from time to time.

''*ECB Recommended Rate*'' means the rate (inclusive of any spreads or adjustments) recommended as the replacement for EuroSTR by the European Central Bank (or any successor administrator of EuroSTR) and/or by a committee officially endorsed or convened by the European Central Bank (or any successor administrator of EuroSTR) for the purpose of recommending a replacement for EuroSTR (which rate may be produced by the European Central Bank or another administrator) and as provided by the administrator of that rate or, if that rate is not provided by the administrator thereof (or a successor administrator), published by an authorized distributor.

''*EDFR Spread*'' means:

(a) If no ECB Recommended Rate is recommended before the end of the first TARGET Settlement Day (as defined in the 2006 ISDA Definitions) following the Fallback Index Cessation Effective Date with respect to Fallback Rate (EuroSTR) (or, if later, before the end of the first TARGET Settlement Day following the Fallback Index Cessation Effective Date with respect to EuroSTR), the arithmetic mean of the daily difference between EuroSTR and the Eurosystem Deposit Facility Rate over an observation period of 30 TARGET Settlement Days starting 30 TARGET Settlement Days prior to the day on which the Fallback Index Cessation Event with respect to Fallback Rate (EuroSTR) occurs (or, if later, 30 TARGET Settlement Days prior to the day on which the first Fallback Index Cessation Event with respect to EuroSTR occurs) and ending on the TARGET Settlement Day immediately preceding the day on which the Fallback Index Cessation Event with respect to Fallback Rate (EuroSTR) occurs (or, if later, the TARGET Settlement Day immediately preceding the day on which the first Fallback Index Cessation Event with respect to EuroSTR occurs); or

(b) If a Fallback Index Cessation Event with respect to the ECB Recommended Rate occurs, the arithmetic mean of the daily difference between the ECB Recommended Rate and the Eurosystem Deposit Facility Rate over an observation period of 30 TARGET Settlement Days starting 30 TARGET Settlement Days prior to the day on which the Fallback Index Cessation Event with respect to the ECB Recommended Rate occurs and ending on the TARGET Settlement Day immediately preceding the day on which that Fallback Index Cessation Event occurs.

''*Eurosystem Deposit Facility Rate*'' means the rate on the deposit facility, which banks may use to make overnight deposits with the Eurosystem and which is published on the ECB's website (as defined in the 2006 ISDA Definitions).

''*Fallback Index Cessation Effective Date*'' means, in respect of a Fallback Index Cessation Event, the first date on which the Applicable Fallback Rate is no longer provided. If the Applicable Fallback Rate ceases to be provided on the same day that it would have been observed but it was provided at the time at which it is ordinarily observed (or, if no such time is specified, at the time at which it is ordinarily published), then the Fallback Index Cessation Effective Date will be the next day on which the rate would ordinarily have been published. If the

Applicable Fallback Rate is the Modified SNB Policy Rate or Modified EDFR, references to the Applicable Fallback Rate in this definition of ''Fallback Index Cessation Effective Date'' shall be deemed to be references to the index, benchmark or other price source that is referred to in the definition of Modified SNB Policy Rate or Modified EDFR, as applicable.

''*Fallback Index Cessation Event*'' means, in respect of an Applicable Fallback Rate:

(a) A public statement or publication of information by or on behalf of the administrator or provider of the Applicable Fallback Rate announcing that it has ceased or will cease to provide the Applicable FallbackRate permanently or indefinitely, provided that, at the time of the statement or publication, there is no successor administrator or provider that will continue to provide the Applicable Fallback Rate; or

(b) If the Applicable Fallback Rate is:

(i) Fallback Rate (SONIA), Fallback Rate (SARON), Fallback Rate (SOFR), Fallback Rate (EuroSTR), Fallback Rate (TONA), Fallback Rate (AONIA), Fallback Rate (CORRA) or Fallback Rate (HONIA), a public statement or publication of information by the regulatory supervisor for the administrator of the Underlying Rate, the central bank for the currency of the Underlying Rate, an insolvency official with jurisdiction over the administrator for the Underlying Rate, a resolution authority with jurisdiction over the administrator for the Underlying Rate or a court or an entity with similar insolvency or resolution authority over the administrator for the Underlying Rate, which states that the administrator of the Underlying Rate has ceased or will cease to provide the Underlying Rate permanently or indefinitely, provided that, at the time of the statement or publication, there is no successor administrator that will continue to provide the Underlying Rate; or

(ii) SONIA, the GBP Recommended Rate, SARON, the NWG Recommended Rate, the Modified SNB Policy Rate, SOFR, the Fed Recommended Rate, OBFR, the FOMC Target Rate, EuroSTR, the ECB Recommended Rate, Modified EDFR, TONA, the JPY Recommended Rate, AONIA, the RBA Recommended Rate, CORRA, the CAD Recommended Rate, the BOC Target Rate, HONIA, the HKD Recommended Rate, Fallback Rate (SOR), the MAS Recommended Rate, SORA, Fallback Rate (THBFIX), the BOT Recommended Rate or THOR, a public statement or publication of information by the regulatory supervisor for the administrator or provider of the Applicable Fallback Rate, the central bank for the currency of the Applicable Fallback Rate, an insolvency official with jurisdiction over the administrator or provider for the Applicable Fallback Rate, a resolution authority with jurisdiction over the administrator or provider for the Applicable Fallback Rate or a court or an entity with similar insolvency or resolution authority over the administrator or provider for the Applicable Fallback Rate, which states that the administrator or provider of the Applicable Fallback Rate has ceased or will cease to provide the Applicable Fallback Rate permanently or indefinitely, provided that, at the time of the statement or publication, there is no successor administrator or provider that will continue to provide the Applicable Fallback Rate.

If the Applicable Fallback Rate is the Modified SNB Policy Rate or Modified EDFR, references to the administrator or provider of such rate in this definition of ''Fallback Index Cessation Event'' shall be deemed to be references to the administrator or provider of the index, benchmark or other price source that is referred to in the definition of Modified SNB Policy Rate or Modified EDFR, as applicable.

''*Fallback Observation Day*'' means, in respect of an Applicable Fallback Rate and unless otherwise agreed, the day that is two Business Days (as defined in the relevant Protocol Covered Document or, if that term is not defined therein, as defined in the 2006 ISDA Definitions and, in each case, for the purposes of the payment which is calculated by reference to that Applicable Fallback Rate) preceding the day on which payment by reference to that rate is due (which under the 2006 ISDA Definitions would be equivalent to the ''Payment Date'').

''*Fallback Rate (AONIA)*'' means the term adjusted AONIA plus the spread relating to the bank bill swap rate, in each case, for the period of time in respect of which the Relevant IBOR is to be determined provided by Bloomberg Index Services Limited (or a successor provider as approved and/or appointed by ISDA from time to time), as the provider of term adjusted AONIA and the spread, on the Fallback Rate (AONIA) Screen (or by other means) or provided to, and published by, authorized distributors at, or prior to, the Applicable Cut-off Time.

''*Fallback Rate (AONIA) Screen*'' means the Bloomberg Screen (as defined in the 2006 ISDA Definitions) corresponding to the Bloomberg ticker for the fallback for the bank bill swap rate for the period of time in respect of which the Relevant IBOR is to be determined accessed via the Bloomberg Screen <FBAK> <GO> Page (or, if applicable, accessed via the Bloomberg Screen <HP> <GO>) or any other published source designated by Bloomberg Index Services Limited (or a successor provider as approved and/or appointed by ISDA from time to time).

''*Fallback Rate (CORRA)*'' means the term adjusted CORRA plus the spread relating to the Canadian dollar offered rate, in each case, for the period of time in respect of which the Relevant IBOR is to be determined provided by Bloomberg Index Services Limited (or a successor provider as approved and/or appointed by ISDA from time to time), as the provider of term adjusted CORRA and the spread, on the Fallback Rate (CORRA) Screen (or by other means) or provided to, and published by, authorized distributors at, or prior to, the Applicable Cut-off Time.

''*Fallback Rate (CORRA) Screen*'' means the Bloomberg Screen (as defined in the 2006 ISDA Definitions) corresponding to the Bloomberg ticker for the fallback for the Canadian dollar offered rate for the period of time in respect of which the Relevant IBOR is to be determined accessed via the Bloomberg Screen <FBAK> <GO> Page (or, if applicable, accessed via the Bloomberg Screen <HP> <GO>) or any other published source designated by Bloomberg Index Services Limited (or a successor provider as approved and/or appointed by ISDA from time to time).

''*Fallback Rate (EuroSTR)*'' means:

(a) The term adjusted EuroSTR; plus

(b) If the Relevant IBOR is:

(i) Euro LIBOR, the spread relating to euro LIBOR; or

(ii) The euro interbank offered rate, the spread relating to the euro interbank offered rate, in each case, for the period of time in respect of which the Relevant IBOR is to be determined provided by Bloomberg Index Services Limited (or a successor provider as approved and/or appointed by ISDA from time to time), as the provider of term adjusted EuroSTR and the spread, on the Fallback Rate (EuroSTR) Screen (or by other means) or provided to, and published by, authorized distributors at, or prior to, the Applicable Cut-off Time.

''*Fallback Rate (EuroSTR) Screen*'' means the Bloomberg Screen (as defined in the 2006 ISDA Definitions) corresponding to the Bloomberg ticker for the fallback for euro LIBOR or the euro interbank offered rate, as applicable, for the period of time in respect of which the Relevant IBOR is to be determined accessed via the Bloomberg Screen <FBAK> <GO> Page (or, if applicable, accessed via the Bloomberg Screen <HP> <GO>) or any other published source designated by Bloomberg Index Services Limited (or a successor provider as approved and/or appointed by ISDA from time to time).

''*Fallback Rate (HONIA)*'' means the term adjusted HONIA rate plus the spread relating to the Hong Kong interbank offered rate, in each case, for the period of time in respect of which the Relevant IBOR is to be determined provided by Bloomberg Index Services Limited (or a successor provider as approved and/or appointed by ISDA from time to time), as the provider of term adjusted HONIA and the spread, on the Fallback Rate (HONIA) Screen (or by other means) or provided to, and published by, authorized distributors at, or prior to, the Applicable Cut-off Time.

''*Fallback Rate (HONIA) Screen*'' means the Bloomberg Screen (as defined in the 2006 ISDA Definitions) corresponding to the Bloomberg ticker for the fallback for the Hong Kong interbank offered rate for the period of time in respect of which the Relevant IBOR is to be determined accessed via the Bloomberg Screen <FBAK> <GO> Page (or, if applicable, accessed via the Bloomberg Screen <HP> <GO>) or any other published source designated by Bloomberg Index Services Limited (or a successor provider as approved and/or appointed by ISDA from time to time).

''*Fallback Rate (SARON)*'' means the term adjusted SARON plus the spread relating to Swiss franc LIBOR, in each case, for the period of time in respect of which the Relevant IBOR is to be determined provided by Bloomberg Index Services Limited (or a successor provider as approved and/or appointed by ISDA from time to time), as the provider of term adjusted SARON and the spread, on the Fallback Rate (SARON) Screen (or by other means) or provided to, and published by, authorized distributors at, or prior to, the Applicable Cut-off Time.

''*Fallback Rate (SARON) Screen*'' means the Bloomberg Screen (as defined in the 2006 ISDA Definitions) corresponding to the Bloomberg ticker for the fallback for Swiss franc LIBOR for the period of time in respect of which the Relevant IBOR is to be determined accessed via the Bloomberg Screen <FBAK> <GO> Page (or, if applicable, accessed via the Bloomberg Screen <HP> <GO>) or any other published source designated by Bloomberg Index Services Limited (or a successor provider as approved and/or appointed by ISDA from time to time).

''*Fallback Rate Screen*'' means, if the Applicable Fallback Rate is: (a) Fallback Rate (SONIA), the Fallback Rate (SONIA) Screen; (b) Fallback Rate (SARON), the Fallback Rate (SARON) Screen; (c) Fallback Rate (SOFR), the Fallback Rate (SOFR) Screen; (d) Fallback Rate (EuroSTR), the Fallback Rate (EuroSTR) Screen; (e) Fallback Rate (TONA), the Fallback Rate (TONA) Screen; (f) Fallback Rate (AONIA), the Fallback Rate (AONIA) Screen; (g) Fallback Rate (CORRA), the Fallback Rate (CORRA) Screen, (h) Fallback Rate (HONIA), the Fallback Rate (HONIA) Screen, (i) Fallback Rate (SOR), the Fallback Rate (SOR) Screen; and (j) Fallback Rate (THBFIX), the Fallback Rate (THBFIX) Screen.

''*Fallback Rate (SOFR)*'' means the term adjusted SOFR plus the spread relating to U.S. dollar LIBOR, in each case, for the period of time in respect of which the Relevant IBOR is to be determined provided by Bloomberg Index Services Limited (or a successor provider as approved and/or appointed by ISDA from time to time), as the provider of term adjusted SOFR and the spread, on the Fallback Rate (SOFR) Screen (or by other means) or provided to, and published by, authorized distributors at, or prior to, the Applicable Cut-off Time.

''*Fallback Rate (SOFR) Screen*'' means the Bloomberg Screen (as defined in the 2006 ISDA Definitions) corresponding to the Bloomberg ticker for the fallback for U.S. dollar LIBOR for the period of time in respect of which the Relevant IBOR is to be determined accessed via the Bloomberg Screen <FBAK> <GO> Page (or, if applicable, accessed via the Bloomberg Screen <HP> <GO>) or any other published source designated by Bloomberg Index Services Limited (or a successor provider as approved and/or appointed by ISDA from time to time).

''*Fallback Rate (SONIA)*'' means the term adjusted SONIA rate plus the spread relating to sterling LIBOR, in each case, for the period of time in respect of which the Relevant IBOR is to be determined provided by Bloomberg Index Services Limited (or a successor provider as approved and/or appointed by ISDA from time to time), as the provider of term adjusted SONIA and the spread, on the Fallback Rate (SONIA) Screen (or by other means) or provided to, and published by, authorized distributors at, or prior to, the Applicable Cut-off Time.

''*Fallback Rate (SONIA) Screen*'' means the Bloomberg Screen (as defined in the 2006 ISDA Definitions) corresponding to the Bloomberg ticker for the fallback for sterling LIBOR for the period of time in respect of which the Relevant IBOR is to be determined accessed via the Bloomberg Screen <FBAK> <GO> Page (or, if applicable, accessed via the Bloomberg Screen <HP> <GO>) or any other published source designated by Bloomberg Index Services Limited (or a successor provider as approved and/or appointed by ISDA from time to time).

''*Fallback Rate (SOR)*'' means the rate based on actual transactions in the U.S. dollar/Singapore dollar foreign exchange swap market and a U.S. dollar interest rate calculated by reference to ''Fallback Rate (SOFR)'' as defined above and including any fallback rate that may apply pursuant to subparagraph (c) of the definition of ''Applicable Fallback Rate'' above for the period of time in respect of which the Relevant IBOR is to be determined provided by ABS Benchmarks Administration Co Pte. Ltd. (or a successor provider), as the provider of Fallback Rate (SOR), on the Fallback Rate (SOR) Screen (or by other means) or provided to, and published by, authorized distributors at, or prior to, the Applicable Cut-off Time.

''*Fallback Rate (SOR) Screen*'' means the Refinitiv Screen (as defined in the 2006 ISDA Definitions) corresponding to the Refinitiv ticker for the fallback for the Singapore dollar swap offer rate for the period of time in respect of which the Relevant IBOR is to be determined accessed via the Refinitiv Screen <FBKSORFIX> (or, if applicable, accessed via the relevant Refinitiv Screen for 'price history') or any other published source designated by ABS Benchmarks Administration Co Pte. Ltd. (or a successor provider).

''*Fallback Rate (THBFIX)*'' means the rate based on actual transactions in the U.S. dollar/Thai baht foreign exchange swap market and a U.S. dollar interest rate calculated by reference to ''Fallback Rate (SOFR)'' as defined above and including any fallback rate that may apply pursuant to subparagraph (c) of the definition of ''Applicable Fallback Rate'' above for the period of time in respect of which the Relevant IBOR is to be determined provided by the Bank of Thailand (or a successor provider), as the provider of Fallback Rate (THBFIX), on the Fallback Rate (THBFIX) Screen (or by other means) or provided to, and published by, authorized distributors at, or prior to, the Applicable Cut-off Time.

''*Fallback Rate (THBFIX) Screen*'' means the Refinitiv Screen (as defined in the 2006 ISDA Definitions) corresponding to the Refinitiv ticker for the fallback for the Thai baht interest rate fixing for the period of time in respect of which the Relevant IBOR is to be determined accessed via the Refinitiv Screen <FBKTHBFIX> (or, if applicable, accessed via the relevant Refinitiv Screen for 'price history') or any other published source designated by the Bank of Thailand (or a successor provider).

''*Fallback Rate (TONA)*'' means:

(a) The term adjusted TONA; plus

(b) If the Relevant IBOR is:

(i) Japanese yen LIBOR, the spread relating to Japanese yen LIBOR;

(ii) The Japanese yen Tokyo interbank offered rate, the spread relating to the Japanese yen Tokyo interbank offered rate; or the euroyen Tokyo interbank offered rate, the spread relating to the euroyen Tokyo interbank offered rate, in each case, for the period of time in respect of which the Relevant IBOR is to be determined provided by Bloomberg Index Services Limited (or a successor provider as approved and/or appointed by ISDA from time to time), as the provider of term adjusted TONA and the spread, on the Fallback Rate (TONA) Screen (or by other means) or provided to, and published by, authorized distributors at, or prior to, the Applicable Cut-off Time.

''*Fallback Rate (TONA) Screen*'' means the Bloomberg Screen (as defined in the 2006 ISDA Definitions) corresponding to the Bloomberg ticker for the fallback for Japanese yen LIBOR, the Japanese yen Tokyo interbank offered rate or the euroyen Tokyo interbank offered rate, as applicable, for the period of time in respect of which the Relevant IBOR is to be determined accessed via the Bloomberg Screen <FBAK> <GO> Page (or, if applicable, accessed via the Bloomberg Screen <HP> <GO>) or any other published source designated by Bloomberg Index Services Limited (or a successor provider as approved and/or appointed by ISDA from time to time).

''*Fed Recommended Rate*'' means the rate (inclusive of any spreads or adjustments) recommended as the replacement for SOFR by the Federal Reserve Board or the Federal Reserve Bank of New York, or by a committee officially endorsed or convened by the Federal Reserve Board or the Federal Reserve Bank of New York for the purpose of recommending a replacement for SOFR (which rate may be produced by the Federal Reserve Bank of New York or another administrator) and as provided by the administrator of that rate or, if that rate is not provided by the administrator thereof (or a successor administrator), published by an authorized distributor.

''*FOMC Target Rate*'' means the short-term interest rate target set by the Federal Open Market Committee and published on the Federal Reserve's website (as defined in the 2006 ISDA Definitions) or, if the Federal Open Market Committee does not target a single rate, the mid-point of the short-term interest rate target range set by the Federal Open Market Committee and published on the Federal Reserve's website (calculated as the arithmetic average of the upper bound of the target range and the lower bound of the target range, rounded, if necessary, in accordance with the method set forth in Section 8.1(c) of the 2006 ISDA Definitions).

''*GBP Recommended Rate*'' means the rate (inclusive of any spreads or adjustments) recommended as the replacement for SONIA by (a) the administrator of SONIA if the administrator of SONIA is a national central bank, or (b) if the national central bank administrator of SONIA does not make a recommendation or the administrator of SONIA is not a national central bank, a committee designated for this purpose by one or both of the Financial Conduct Authority (or any successor thereto) and the Bank of England and as provided by the then administrator of that rate (or a successor administrator) or, if that rate is not provided by the administrator thereof (or a successor administrator), published by an authorized distributor.

''*HKD Recommended Rate*'' means the rate (inclusive of any spreads or adjustments)

recommended as the replacement for HONIA by the administrator of HONIA or by a committee officially endorsed or convened by the administrator of HONIA for the purpose of recommending a replacement for HONIA (which rate may be produced by the administrator of HONIA or another administrator) and as provided by the administrator of that rate or, if that rate is not provided by the administrator thereof (or a successor administrator), published by an authorized distributor.

''*Index Cessation Effective Date*'' means, in respect of a Relevant IBOR (or, if either the Singapore dollar swap offer rate or the Thai baht interest rate fixing is the Relevant IBOR, U.S. dollar LIBOR) and one or more Index Cessation Events, the first date on which the Relevant IBOR (or, if either the Singapore dollar swap offer rate or the Thai baht interest rate fixing is the Relevant IBOR, U.S. dollar LIBOR) is either (a) in respect of a Relevant LIBOR (or, if the Relevant IBOR is the Singapore dollar swap offer rate or the Thai baht interest rate fixing, in respect of U.S. dollar LIBOR), Non-Representative by reference to the most recent statement or publication contemplated in subparagraph (c) of the definition of ''Index Cessation Event'' below and even if such rate continues to be provided on such date or (b) no longer provided. If the Relevant IBOR (or, if either the Singapore dollar swap offer rate or the Thai baht interest rate fixing is the Relevant IBOR, U.S. dollar LIBOR) ceases to be provided on the Relevant Original Fixing Date but it was provided (and, in respect of a Relevant LIBOR (or, if the Relevant IBOR is the Singapore dollar swap offer rate or the Thai baht interest rate fixing, in respect of U.S. dollar LIBOR), is not Non-Representative) at the time at which it is ordinarily observed, then the Index Cessation Effective Date will be the next day on which the rate would ordinarily have been published. An Index Cessation Effective Date may also occur in accordance with paragraph 6(d), subparagraph 6(e)(ii) or subparagraph 6(e)(iii) above.

''*Index Cessation Event*'' means, in respect of a Relevant IBOR:

(a) A public statement or publication of information by or on behalf of the administrator of the Relevant IBOR announcing that it has ceased or will cease to provide the Relevant IBOR permanently or indefinitely, provided that, at the time of the statement or publication, there is no successor administrator that will continue to provide the Relevant IBOR;

(b) A public statement or publication of information by the regulatory supervisor for the administrator of the Relevant IBOR, the central bank for the currency of the Relevant IBOR, an insolvency official with jurisdiction over the administrator for the Relevant IBOR, a resolution authority with jurisdiction over the administrator for the Relevant IBOR or a court or an entity with similar insolvency or resolution authority over the administrator for the Relevant IBOR, which states that the administrator of the Relevant IBOR has ceased or will cease to provide the Relevant IBOR permanently or indefinitely, provided that, at the time of the statement or publication, there is no successor administrator that will continue to provide the Relevant IBOR; or

(c) If the Relevant IBOR is sterling LIBOR, Swiss franc LIBOR, U.S. dollar LIBOR, euro LIBOR, Japanese yen LIBOR, the Singapore dollar swap offer rate or the Thai baht interest rate fixing, a public statement or publication of information by the regulatory supervisor for the administrator of such Relevant IBOR (or, if the Relevant IBOR is the Singapore dollar swap offer rate or the Thai baht interest rate fixing, by the regulatory supervisor for the administrator of U.S. dollar LIBOR) announcing that (i) the regulatory supervisor has determined that such Relevant IBOR is no longer, or as of a specified future date will no longer be, representative of the underlying market and economic reality that such Relevant IBOR is intended to measure and that representativeness will not be restored and (ii) it is being made in the awareness that the statement or publication will engage certain contractual triggers for fallbacks activated by pre-cessation announcements by such supervisor (howsoever described) in contracts, provided that, if either the Singapore dollar swap offer rate or the Thai baht interest rate fixing is the Relevant IBOR, references to the ''Relevant IBOR'' in subparagraphs (a), (b) and (c)(i) above of this definition of ''Index Cessation Event'' will be deemed to be references to U.S. dollar LIBOR.

An Index Cessation Event may also occur in accordance with paragraph 6(d), subparagraph 6(e)(ii) or subparagraph 6(e)(iii) above.

''*JPY Recommended Rate*'' means the rate (inclusive of any spreads or adjustments) recommended as the replacement for TONA by a committee officially endorsed or convened by the Bank of Japan for the purpose of recommending a replacement for TONA (which rate may be produced by the Bank of Japan or another administrator) and as provided by the administrator of that rate or, if that rate is not provided by the administrator thereof (or a successor administrator), published by an authorized distributor.

''*MAS Recommended Rate*'' means the rate (inclusive of any spreads or adjustments) recommended as the replacement for Fallback Rate (SOR) by the Monetary Authority of Singapore or by a committee officially endorsed or convened by the Monetary Authority of Singapore (which rate may be produced by the Monetary Authority of Singapore or another administrator) and as provided by the administrator of that rate in respect of the day for which that rate is required (which under the 2006 ISDA Definitions would be the ''Reset Date'') or, if that rate is not provided by the administrator of that rate (or a successor administrator), published by an authorized distributor.

''*Modified EDFR*'' means a rate equal to the Eurosystem Deposit Facility Rate plus the EDFR Spread.

''Modified SNB Policy Rate'' means a rate equal to the SNB Policy Rate plus the SNB Spread.

''*Non-Representative*'' means, in respect of a Relevant LIBOR (or, if the Relevant IBOR is the Singapore dollar swap offer rate or the Thai baht interest rate fixing, in respect of U.S. dollar LIBOR), the regulatory supervisor for the administrator of the Relevant LIBOR (or, if the Relevant IBOR is the Singapore dollar swap offer rate or the Thai baht interest rate fixing, U.S. dollar LIBOR):

(a) Has determined and announced that the Relevant LIBOR (or, if the Relevant IBOR is the Singapore dollar swap offer rate or the Thai baht interest rate fixing, U.S. dollar LIBOR) is no longer representative of the underlying market and economic reality it is intended to measure and representativeness will not be restored; and

(b) Is aware that certain contractual triggers for fallbacks activated by pre-cessation announcements by such supervisor (howsoever described) in contracts have been or are engaged, provided that such Relevant LIBOR (or, if the Relevant IBOR is the Singapore dollar swap offer rate or the Thai baht interest rate fixing, U.S. dollar LIBOR) will be 'Non-Representative' by reference to the date indicated in the most recent statement or publication contemplated in subparagraph (c) of the definition of ''Index Cessation Event'' above.

''*NWG Recommended Rate*'' means the rate (inclusive of any spreads or adjustments) recommended as the replacement for SARON by any working group or committee in Switzerland organized in the same or a similar manner as the National Working Group on Swiss Franc Reference Rates that was founded in 2013 for purposes of, among other things, considering proposals to reform reference interest rates in Switzerland, and as provided by the administrator of that rate or, if that rate is not provided by the administrator thereof (or a successor administrator), published by an authorized distributor.

''*OBFR*'' means the Overnight Bank Funding Rate, as provided by the Federal Reserve Bank of New York (or a successor administrator) on the New York Fed's website (as defined in the 2006 ISDA Definitions) or, if that rate is not provided by the Federal Reserve Bank of New York (or a successor administrator), published by an authorized distributor.

''*RBA Recommended Rate*'' means the rate (inclusive of any spreads or adjustments) recommended as the replacement for AONIA by the Reserve Bank of Australia (which rate may be produced by the Reserve Bank of Australia or another administrator) and as provided by the administrator of that rate or, if that rate is not provided by the administrator thereof (or a successor administrator), published by an authorized distributor.

''*Relevant LIBOR*'' means sterling LIBOR, Swiss franc LIBOR, U.S. dollar LIBOR, euro LIBOR and Japanese yen LIBOR.

''*Relevant Original Fixing Date*'' means, in respect of a Relevant IBOR and unless otherwise agreed, the day on which that Relevant IBOR would have been observed (which under the 2006 ISDA Definitions would be the ''Reset Date'' or, if the Relevant IBOR is Swiss franc LIBOR, U.S. dollar LIBOR, euro LIBOR, the euro interbank offered rate, Japanese yen LIBOR, the Japanese yen Tokyo interbank offered rate, the euroyen Tokyo interbank offered rate, the Singapore dollar swap offer rate or the Thai

baht interest rate fixing, the day that is two Applicable Banking Days preceding a relevant ''Reset Date'', as applicable).

''*SNB Policy Rate*'' means the policy rate of the Swiss National Bank.

''*SNB Spread*'' means the historical median between SARON and the SNB Policy Rate over an observation period of two years starting two years prior to the day on which the Fallback Index Cessation Event with respect to Fallback Rate (SARON) occurs (or, if later, two years prior to the day on which the first Fallback Index Cessation Event with respect to SARON occurs) and ending on the Zurich Banking Day (as defined in the 2006 ISDA Definitions) immediately preceding the day on which the Fallback Index Cessation Event with respect to Fallback Rate (SARON) occurs (or, if later, the Zurich Banking Day immediately preceding the day on which the first Fallback Index Cessation Event with respect to SARON occurs), as determined by the Calculation Agent.

''*SORA*'' means the Singapore Overnight Rate Average as provided by the Monetary Authority of Singapore (or a successor administrator) on the Monetary Authority of Singapore's website (as defined in the 2006 ISDA Definitions) (or as published by its authorized distributors).

''*THOR*'' means the Thai Overnight Repurchase Rate as provided by the Bank of Thailand as administrator of the benchmark (or a successor administrator) on the Bank of Thailand's website (as defined in the 2006 ISDA Definitions) (or as published by its authorized distributors).

''*UK Bank Rate*'' means the official bank rate as determined by the Monetary Policy Committee of the Bank of England and published by the Bank of England from time to time.

''*Underlying Rate*'' means, if the Applicable Fallback Rate is: (a) Fallback Rate (SONIA), SONIA; (b) Fallback Rate (SARON), SARON; (c) Fallback Rate (SOFR), SOFR; (d) Fallback Rate (EuroSTR), EuroSTR; (e) Fallback Rate (TONA), TONA; (f) Fallback Rate (AONIA), AONIA; (g) Fallback Rate (CORRA), CORRA; and (h) Fallback Rate (HONIA), HONIA.

7. Negative Interest Protocol

The parties agree that the amendments made by this Protocol do not constitute a ''Spread Provision'' (as defined in the ISDA 2014 Collateral Agreement Negative Interest Protocol published on May 12, 2014 by ISDA).

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By order of the Board of Governors of the Federal Reserve System.

Ann E. Misback,

Secretary of the Board.

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